
A SURE GUIDE
for His Majesties
IUSTICE of PEACE
London Printed for Henry Twyford in 2 Inne Court Middle Temple 1661


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Justices of Peace:

PLAINLY SHEWING

Their Duty, and the Duties of the several Officers of the Counties, Hundreds, and PARISHES, (*viz.*) Sheriffs, County-Treasurers, Bridewel-Masters, Constables, Overseers of the Poor, Surveyors of the High-wayes, and Church-wardens, &c.

With the Heads of the Statutes, concerning the Doctrine and Canons of the Church of *England*.

Methodically digested into LVIII. Chapters,
By *W. Shepherd*, Esquire.

The second Edition Corrected and Enlarged.

LONDON,
Printed for *Henry Twyford*, *John Place*, and *Timothy Twyford*, MDCLXIX.

UMI

To the Right Honourable, & Worſhipful, the Juſtices of Peace, throughout the Kingdom of England.

GENTLEMEN,

YOU may perhaps at firſt view, judge this Piece of the *Juſtice of Peace's Office* ſuperfluous, after ſo many (and two of mine own) on the ſame Subject. But give me leave to tell you, That all the former helps herein (as the caſe now is, by reaſon of the alteration of times and Laws) are deficient, and will fruſtrate your expectations, if too much confident in. And therefore, if you ſhall but vouchſafe to give it admittance into your Service, for which it is prepared, and to ſuſpend your Judgement upon it, till you have ſeen what it is, and to vouchſafe it your favorable Protection; This is all that is deſired, by

Your moſt humble Servant,
W. SHEPHARD.

To the READER.

Courteous and Judicious Reader,

YOu ſhall have in this Piece, *a third Survey of the Office of the* Juſtice of Peace: *which the change of Times, Repeal of old, and addition of new Laws have rendred neceſſary. The former Guides having with age loſt part of their ſight, they may now miſguide thoſe that follow them. A third part of the work (being about matters of Religion as it refers to the juſtice of Peace's Office, or may be of much uſe to him to know) is altogether new, and of a ſubject in which no man hath yet dipt his Pen. In the reſt, you will find many alterations and additions. And the whole put into a new method, and more commodious dreſs than before. I have as much as may be declined vain Repetitions, and upon the whole (I am bold to ſay) left out nothing of conſequence or weight, for a* Juſtice of Peace *to know, in and for the due execution of his Office. Some other things we have added of great uſe, & at this time very needfull to be known, and not altogether impertinent to our Subject matter in hand. As the Heads of the many Statutes wherein the* Juſtices of Peace *have a Power given unto them, touching the Doctrines and Cannons of the Church, and ſome other things. Our Method in the work you may perceive is,*

1. To

1. To ſet down carefully the offence. 2. To ſet down the puniſhment. 3. And then the way by which it is to be done. And what the Juſtice of Peace *Ex officio* hath to do therein, either within, or without his Seſſions of the Peace. I have herein alſo given a Summary, or touch of the Duties of ſome other Officers of the County, Hundreds, and Pariſhes, as Sheriffs, County-Treaſurers, Bridewell-Maſters, Conſtables, Overſeers of the Poor, Surveyors of the Highwayes, Church-wardens, and the like, (which by the Table may be found) to the end, that the juſtice of Peace (being to overſee, and order them, & to puniſh their neglects in their Office) may the better underſtand his work herein. And now, that you may the better improve all that I have done herein to your moſt advantage, let me entreat you to read theſe following Adviſes.

1. *That where we ſay one Juſtice of Peace may do a thing, we intend that two or more Juſtices may do the ſame thing. And where we ſay two Juſtices may do a thing, we intend that three, or more, may do the ſame thing.* 2. *That where we ſay a thing is to be done by two or more Juſtices, there we intend, that the thing may not be done by fewer Juſtices then we name.* 3. *That where we ſay the thing muſt, or may be done by two Juſtices* Quorum unus, *there it may not be done by other Juſtices; one of them muſt*

be of the Quorum. *But where we ſay one or two Juſtices may do a thing, and do not ſay* Quorum unus, *thereby we intend, that any Juſtices, of the* Quorum, *or not of the* Quorum, *may do it.* 4. *That where we ſay, the Conviction is to be by the Confeſſion of the party, or by Confeſſion onely; by this we intend the Confeſſion of the party offending: where we ſay the Conviction muſt be by view; thereby we intend the view or ſight of the Juſtice himſelf. And where we ſay, it muſt be by proof of Witneſs, we do not intend Witneſs upon Oath, unleſs we do ſo expreſs it.* 5. *That where we ſpeak of a* Warrant *that the Juſtice of Peace is to make, & ſay not what kind of* Warrant, *or to whom to be directed, hereby we intend a* Warrant *in Writing, under the Hand and Seal of the Juſtice, directed to the Officer of the place. And where we ſay the* Warrant *is to be ſent to the Conſtable and no more, we intend the Conſtable of the place where the offender dwells.* 6. *Where we ſpeak of Juſtices, and ſay no more, we always intend Juſtices of Peace.* 7. *That where we ſpeak of Seſſions, and ſay no more we always intend the general* Quarter-Seſſions, *and none other.* 8. *That where we ſay,* Sale of Goods rendring, &c. *by this we intend, that the Officer is to priſe and ſell the Goods diſtrained, and keep up the money forfeited, and return the overplus to the owner of the Diſtreſs.* 9. *That where we ſay levied by his (or their)* Warrant, *we do intend the* Warrant

of

of the Juſtice, or Juſtices. 10. *That where we ſay, That the forfeiture ſhall go to the uſe of the poor, &c. and ſay not what poor; we intend the poor of the place, where the offence is committed.* 11. *That where we ſay, that an offender is to be puniſhed, to be committed, or the penalty levied, or the Defendant diſabled, or the like, (as before) or as in the laſt; by this we intend, that the proceeding againſt the offender in this offence, is to be directed by the proceeding in the offence which went laſt before it.* 12. *That where we ſay the Juſtices, where &c. or the poor where &c. we intend, the Juſtices of the County, or the poor of the place, where the offence is committed. But where we ſay, the Juſtices, or the poor, where, or where; by this generally we intend the Caſe to be ſuch, that the* Warrant *muſt be penned and directed according to the Act, which is ſometimes meant of the Juſtices of the County, and poor of the place where the offender doth live, or is firſt apprehended; and ſometimes intended of the Juſtices of the County, and poor of the place where the offender doth live, or offence is done. In this Caſe the Statute muſt be looked into.* 13 *That where we ſay in the Margent (in the Seſſions) there all the Juſtices work about the thing, is to be done in the Seſſions. Where we ſay (out of the Seſſions) there it is all to be, or may be done without the Seſſions. Where we ſay (in and out) or (within and without) there ſome of it is to be done in, and ſome of it with-*

out

out the Sessions. where we say (in or out) there it is doubtful where it is to be done; but it may be done in, or out of Sessions. And if your Candor will now extenuate the faults both of the Copy and Print, and accept of my endeavour to serve my Generation, I shall think my Labours for the Publique well bestowed, and be still

Yours,

W. SHEPHARD.

CHAP. I.

A GUIDE FOR A JUSTICE of PEACE.

CHAP I.

Of Justices in General; And of the several Kinds of Justices.

SECT. I.

Of Justices in General; And of Justices of Peace.

A Justice in Latin *Justitiarius*, signifieth one that is deputed by the King, to do right by way of Judgment: And he is called a Justice, not *Judex*, from the ancient Latin word *Justitia* (whence *Justitiarius* as appears by *Glanvil* lib. 2. *Chap.* 6.) to admonish him of being not only *justus*, just in Judgment; but *Justitia ipsa*, in the Abstract. Another reason, why they may be called *Justitiarii & non Judices*, is, because they have their Authority by Deputation, a Delegates to the King, and not *Jure Magistratus*;

Of Justices in general; and the several sorts of Justices in England.

Deputy

stratus; and therefore they cannot depute others in their ſtead any of them, but the Juſtice in Eyre of the Foreſt, who hath that liberty given him, by Statute 32 *H.* 8. *Chap.* 35.

Lord Chief Juſtice of the *Kings-Bench.*

Juſtices are in *England* of divers ſorts, 1. *Juſtitiarii de Banco Regis*; the chief of which, is a Lord by his Office, and is called *Capitalis Juſtitiarius Angliæ.* And his Office is eſpecially, to hear and determine Pleas of the Crown, that is, all Offences committed againſt the Crown, Peace, and Dignity of the King; as Treaſons, Felonies, &c. This Juſtice hath no Patent under the Broad Seal, but is made by Writ. The Court wherein theſe Juſtices ſit, is called the *Kings-Bench*; becauſe the King (the firſt and Chief Juſtice of all) did anciently ſit as Judge there, in his own Perſon; and the Court was moveable, as the King did move.

Lord Chief Juſtice of the *Common-Pleas.*

2. *Juſtitiarii ad communia placita tenend. aſſig.* the chief of which is called a Lord by his Office; and theſe Juſtices did originally hear and determine all Civil Cauſes between common perſons, as well real as perſonal. Of theſe Courts, and the Juriſdiction thereof, ſee *Crompton* at large, 9 *H.* 3. 11.

Juſtice of the *Foreſt.*

3. *Juſtitiarii Forreſtæ*, The chief of which is called Lord by Office, and he is to hear and determine all Offences within the Kings Foreſt, committed againſt Vert and Veniſon. Of theſe, there were two: The one of which had Juriſdiction of all the Foreſts on this ſide *Trent*: And the other, of all beyond it. *Manwood*, of Foreſt Laws.

Juſtice of *Aſſizes.*

4. *Juſtitiarii ad Capiendas Aſſiſas*, to take Aſſizes.

Juſtice of *Oyer and Terminer.*

5. *Juſticiarii ad audiendum & terminandum*, or, of *Oyer* and *Terminer*, anciently made upon occaſion of any great Aſſembly, Inſurrection, &c.

6. *Juſti-*

6. *Juſtitiarii Itinerantes.* or, in *Eyre, Iter.* Inſtituted by *H.* 2. as in *Cambdens Brittania*, pag. 104. Juſtice in Eyre.

7. *Juſtitiarii ad Gaolas deliberandas*; Or, of Gaol-delivery. Juſtice of Goal-delivery.

8. There were alſo Juſtices of Labourers: Of which, ſee 21 *Ed.* 3. 1.

9. *Juſtitiarii*, Juſtices of *Niſi Prius*, ſo called from the Clauſe of Adjournment, uſed in the *Common-Pleas*, *Niſi prius Juſtitiarii venerint ad capiendas Aſſizas.* Between whom, and the Juſtices of Aſſize, *Crompton* maketh this difference: The Juſtices of Aſſize have power to give Judgement in a Cauſe: but Juſtices of *Niſi Prius* are only to take the Verdict: but rather for this, That Juſtices of *Niſi Prius* have to deal in cauſes perſonal as well as real; whereas Juſtices of Aſſize, in a ſtrict acception, deal only with poſſeſſory Writs, called Aſſizes. And although the Juſtices of Aſſize, Gaol-delivery, of *Eyre*, and *Oyer* and *Terminer*, did differ: yet now they are the ſame, though by ſeveral Commiſſions. For thoſe who by one Phraſe of Speech, are called Juſtices of the Circuit, and twice every year paſs by two and two through all *England*, have one Commiſſion to take Aſſizes; another to deliver Goals; another of *Oyer* and *Terminer*. For all theſe, ſee 8 *R.* 2. *c.* 2. 33 *H.* 8. *c.* 24. And then there are *Juſtitiarii Pacis*, Juſtices of the Peace. *Bract. Lib.* 3. *Tract.* 2. *Stamford*, Pleas of the Crown, *Cowels* Interpretation of Words, *tit.* Juſtice. Juſtice of Niſi Prius.

SECT. 2.

Of Justices of Peace, and how made.

Justices of the Peace, what?

Justitiarii ad Pacem, Justices of the Peace; or, *Custodes Pacis*, Keepers of the Peace. These Officers are come in the room of ancient Conservators of the Peace, and are Officers of the County where they dwell, appointed by the Kings Commission, to attend the Peace thereof: they were anciently called Guardians of the Peace, till 36 *Ed.* 3. at which time, they were first called Justices. And amongst these Justices, there are some of them (for some special respect) said to be made of the *Quorum*; without the presence or assent of some of which, some important business of the Office may not be dispatched. And they are called Justices of the *Quorum*, from these words in the Commission; *Quorum vos* A, B, C, &c. *unum esse volumus*, for the special trust in them reposed. These Justices none but the King may make. And of those that are made and chosen to the Office, there ought to be in every County at least one Lord; and the rest are to be made up of the most sufficient, worthy, and good and lawful Knights, Esquires, and Gentlemen of the Country; and amongst them, some that are learned in the Law. And anciently, none that had under 20 *l.* a year Land, except he had been a Lawyer, ought to have been a Justice of Peace. But if any men be made Justices of Peace by the Kings Commission, albeit they be not so qualified: yet are they not by this disabled for the Office, but are Justices of the Peace, 27 *H.* 8. 25. 1 *Ed.* 3. 16. 18 *Ed.* 3. 2. 34 *Ed.* 3. 1. 13 *R.* 2. 7. 17 *R.* 2. 10.

Justices of the *Quorum*.

2 *H.*

2 *H.* 5. 1. 18 *H.* 6. 7. But no Sheriff may be a Justice for that year he is Sheriff in the same County, wherein he serves as Sheriff, 1 *Ma.* 8. See *Cook* 2. *Part Inst.* 171. Sheriffs.

For the Justices in *Chester* and *Wales*, see 27 *H.* 8. 5. 32 *H.* 8. 43. 33 *H.* 8. 13. 34 *H.* 8. 26. Wales.

And for the County Palatine of *Lancaster*, see 27 *H.* 8. 24. Lancaster.

And for the Oaths, the Justice is to take, see 13 *R.* 2. 7. 1. *Eliz.* 1. Oath of Justices.

Justices of Peace within Liberties be such in Cities and corporate Towns, as those others be of the County; and their Authority is in most things all one within their several Precincts, 27 *H.* 8. 25. Justices of Liberties.

If a new Patent be made to the Justices of the Peace, in which one of the ancient Justices is left out: yet the Acts of the ancient Justices are lawful till the next Sessions, in which the new Commission is published. And till then he is not bound to take notice of it. *Moor. abridg. Case* at large 333.

Our business now is to lay open the Office of this Justice of Peace. And so we must now consider of him as the Kings Deputy; and having a twofold Jurisdiction, or a Jurisdiction in things of a twofold Nature. The one in Ecclesiastical, or Matters of Religion. The other Secular or Civil. We shall begin with the first, and therein shew how the Law, in reference to this Office, stands at this day; and by the way, how the Cannons of the Church be in relation to the same thing, and make an end with the other. And set forth in both, what the Justice of Peace, *Ex officio*, by his Office, and the duty of his place, hath to do, or may do therein, either in, or out of the publick Sessions of the Peace apart, or in both together.

SECT. 3.

A Summary of all the Powers of the Justice of Peace; and what he may, and ought by his Office to do, within, or without the Sessions; either by the Common-Law, or by the Statute-Law.

NUMB. 1.

THE Common-Law, and Statute-Law together, have given to the Justices of Peace, by virtue of their Office, a very large Power, both in Spiritual, and in Secular things. And this Power is some of it to be exercised, and executed within, and some of it without, and some of it within and without the Sessions. So they are to hear, determine, and punish (as to Spirituals) such Offences and Offenders as these. Such as maintain the Pope's Authority against the King's Supremacy over the Church, by 5 *Eliz.* 1. 23 *Eliz.* 1. 3 *Jac.* 4.

Pope's Supremacy.

Such as bring into *England*, or vent, or take any Popish Books, *Agnus Dei*, Crosses, Pictures, or Bulls of Absolution, by 13 *Eliz.* 2.

Popish-Books, Images, Bulls, &c.

Such as shall say, hear, or be present at Mass; by 23 *Eliz.* 1.

Mass.

Such as are Jesuits, and Seminary Priests, and those that harbour them; by 27 *Eliz.* 2.

Jesuits and Priests.

Such as do not use, or abuse the Book of Common-Prayer; by 23 *Eliz.* 2. Or the Rites and Ceremonies appointed to be used; by 1 *Ed.* 6. 7. 2 and 3 *Ed.* 6. 1. 1 *Eliz.* 2.

Common-Prayer.

Ceremonies.

Such as refuse the Oath of Supremacy and Allegeance; by 1 *Eliz.* 1. 5 *Eliz.* 1.

Oath of Supremacy and Allegiance.

Such

Such as refuse to come Church for a moneth or more, and persuade others not to come to Church, and some other offences about this; by 5 and 6 *Ed.* 6. 1. 23 *Eliz.* 1. 29 *Eliz.* 6. 1 *Eliz.* 1. 5 *Eliz.* 1. 13 *Eliz.* 2. *Coming to Church.*

Such as do not use, abuse, or speak against the Sacrament of the Lord's Supper; by 1 *Ed.* 6. 1. 5 and 6 *Ed.* 6. 1. 1 *Eliz.* 2. 3 *Jac.* 4. *Sacrament.*

Such as are Quakers, and use Conventicles, and forbidden Meetings for holy use; by 14 *Car.* 2. 13 *Car.* 2. 1. 16 *Car.* 2. 4. *Conventicles.*

Some offenders, about Holy-days, and Fish-days; by 2 and 3 *Ed.* 6. 19. 27 *H.* 8. 5. *Sabbath-days and Holy-days.*

Some Offenders about Churches and Church-yards; by 5 and 6 *Ed.* 6. 4. *Churches. Church-yards.*

Some Offenders about Recusancy; by 1 *Eliz.* 2. 23 *Eliz.* 1. 29 *Eliz.* 6. 35 *Eliz.* 1. 2. 1 *Jac.* 4. 3 *Jac.* 5. 7 *Jac.* 6. *Recusants.*

And in the Sessions also [as to Civil, or Secular Matters] they may hear, determine, and punish all Felonies, that were Felonies at the Common-Law, 2 *Ed.* 3. 6. 18 *Ed.* 3. 2. 34 *Ed.* 3. 1. 17 *R.* 2. 10. *Felonies, by Common-Law.*

So all Petit Larcenies. *Larcenie.*

Buggery; by 25 *H.* 8. 6. *Buggery.*

An incorrigible Rogue, that being banished, shall return again without License; by 39 *Eliz.* 2. *Rogue.*

One that hath a Plague-sore upon him; and is forbid to go abroad, and yet doth it; by 1 *Jac.* 31. *Plague.*

Hunting with Vizards in the night in Forrests, Warrens, or Parks; by 1 *H.* 7. 7. *Hunting with Vizards.*

Transportation of sheep alive out of the Realm the second time; upon 8 *Eliz.* 3.

Souldiers, Mariners, and Gunners, which depart from their Captains without License, by 18 *H.* 6. 19. 2 *Ed.* 6. 2. 4 and 5 *P.* and *M.* 3. 5 *Eliz.* 5. *Souldiers and Mariners.*

& wandring Souldier or Mariner abusing himself, by 39 *Eliz.* 17.

Pondike. Such as break down *Pondike* in *Marsh-land*, or old *Field-Dike* in *Norfolk* and *Cambridge*, by 20 *H.* 8. 12. 2 and 3 *P.* and *M.* 19.

Riot and Rout, Force, Forgery, Barretry, Conspiracy, Nusances. So, such as offend by Riots, Routs, and the like. Forcible Entries, and Detainers, Extortions, Conspiracies, Nusances, Maihem, Battery, Trespass, Rescue, Forgery. Some kind of Incontinency, Libelling, Slander, Conspiracy, Fraud, Deceit, Night-walkers. So, some offence about the High-ways, *Cook* 13. *Part.* 33. So Justices are in Sessions to hear, determine, and punish Offenders and Offences.

Horses. In and about the breed of Horses of higher stature, by 32 *H.* 8. 13.

The keeping of great Horses, by 33 *H.* 8. 5.

The transportation of Horses, by 1 *Ed.* 6. 5.

Stoln Horses, by 2 and 3 *P.* and *M.* 2. 7. *Eliz.* 12. so they may hear and determine Offences.

Hostlers, and Inn-holders. Concerning Hostlers and Inn-holders for Horse-bread, by 32 *H.* 8. 21 *Jac.* 21.

Horse-bread Tanners, Curriers, &c. Touching Tanners, Curriers, and Shooe-makers, by 1 *Jac.* 22. 4 *Jac.* 6.

Officers. About Sheriffs, Coroners, Escheators, Clerks of the Markets, and other County, Hundred, and Parish, or Civil Officers; most of their offences are to be punished within the Sessions, 3 *H.* 8. 7. 42 *Ed.* 3. 9. 8 *H.* 6. 9. 23 *H.* 6. 10. 27 *Eliz.* 12. 39 *Eliz.* 4. 17. 11 *H.* 7. 15.

Usury. So is Usury, by 13 *Eliz.* 8.

Weights Measures. Wine and Vintners. Navy. And about Weights and Measures, by 9 *H.* 5. 8. 11 *H.* 7. 4. 8 *H.* 6. 5. 1 *H.* 5. 10. 11 *H.* 6. 8. Also the Defaults of such as sell Wine, by 28 *H.* 8. 14. 7 *Ed.* 6. 5. 37 *H.* 8. 23.

Touching the Navy, by 5 *Eliz.* 1. 1 *Jac.* 25.

And Money, by 19 *H.* 7. 5. Money.

And levying of Issues lost by Jurors, by 27 *Eliz.* 7. 39 *Eliz.* 18. Issues.

About Cottages and In-mates, by 31 *Eliz.* 7. And here they are to order the setting up of a Cottage with the Lord's consent, by 39 *Eliz.* 4. So also, about Bastards, upon an Appeal to them from the Order of the two Justices; by 18 *Eliz.* 3. 1 *Jac.* 25. 7 *Jac.* 4. So neglects in *Hue-and-Cry*, by 27 *Eliz.* 13. So neglect in Watch and Ward, as to Offences and Offenders. Cottages and In-mates. Hue-and-Cry. Watch and Ward.

In the making of Mault, by 2 *Ed.* 6. 1 *Jac.* 25. So in any that sell unwholesome or corrupt Victuals; or sell deceiptful Wares, or buy unlawful Weights, or the like; by 3 and 4 *Ed.* 6. 15, 19. 5 *Eliz.* 4. 19. 5 and 6 *Ed.* 6. 14. 1 *Jac.* 22, 24. 23 *H.* 8. 4. Mault. Corrupt Victuals.

So in fore-stalling, regrating, and ingrossing of Victuals, &c. by 5 *Ed.* 6. 14, 15. 13 *Eliz.* 25. and 3 *P.* and *M.* 13. 5 *Eliz.* 12. 1 *Jac.* 22. Of Tanned Leather, of Wool, of Hides, of Bark, of Corn, Cattle, or other Provision, 14 *Car.* 2. Fore-stalling, &c.

There they may order to amend the High-wayes, and punish defaults, upon 15 *Car.* 2. the wayes from *London* to *York*.

So in the selling of Ale or Beer, to one that hath no License, by 4 *Jac.* 4. Ale-house Keeper.

So, in a Goldsmith in his Trade, by 2 *H.* 6. 14. 4 *H.* 2. 18 *Eliz.* 15. 17 *Ed.* 3. 14. 8 *H.* 5. 3. So the Offences. Gold-smith.

By wilfull Perjury made, or procured, by 5 *Eliz.* 9. 29 *Eliz.* 5. Perjury.

By such as get another man's Goods, by false Letters, or Tokens; by 33 *H.* 8. 1. Counterfeiters, &c.

By such as make false Arrow-heads, by 7 *H.* 4. 7. Arrow-heads.

By

False News. By the contriving, and telling of false News, by 3 *Ed.* 1. 33. 2 *R.* 2. 5. 12 *R.* 2. 11. 1 and 2 *P.* and *M.* 3.

Common Informers, and Informations. By common Informers, by 18 *Eliz.* 5. 27 *Eliz.* 10. 31 *Eliz.* 12.

False Prophecies. About the publishing of false and phantastick Prophecies, by 5 *Eliz.* 65.

About Artificers, Labourers, &c. by 2 *Ed.* 6. 15.

Eggs of Wild-fowl. By the destruction of the Eggs of Wild-Fowl, by 25 *H.* 8. 11. 3 *Sd.* 6, 7.

Hawks, and Swans. By the taking of Hawks or Swan's Eggs out their Nests, &c. By 11 *H.* 7. 17.

By Hawking, Hunting, and killing of Deer, Hares, Conies, Pheasants, Partridges, &c. By 1 *Jac.* 27. 3 *Jac.* 13. 19 *H.* 7. 11. 1 *H.* 7. 7. 7 *Jac.* 11. 13. 17. 5 *Eliz.* 21.

Fish-Spawn. By such as destroy Fish, fry, and spawn, &c. By 1 *Eliz.* 17. And such as destroy Salmons, 17 *R.* 2. 9. 14 *Car.* 2. *Chap.* 31. 13 *R.* 2. 2. 17 *R.* 2. 9. 1 *Eliz.* 17. 27. 5 *Eliz.* 21. 5. So the offences in Artillery, Bows, Buts, &c. By 33 *H.* 8. 9. 34 *H.* 8. 7.

Artillery Bows, &c.

So the offences of Transportation of Sheep, Wool, Woolfells, Mortlings, Fullers-Earth, and Fullers Clay, &c. nor Tobacco-Pipe Clay, upon 16 *Car.* 2. *chap.* 18.

By unlawful Games, by 33 *H.* 8. 9.

Victuallers. By Victuallers. By 2 *Ed.* 6. 15. they may limit their gains, and punish them that take excessively: Here they may enquire of, and punish the exportation of Wool, Clay, Yarn, Earth, against 16 *Car.* 2. *cap.* 18. So any two Justices or more, may upon Complaint, and Appeal made to them, of the Commissioners of Excise, of any oppression by them, may

may moderate it, upon 12 *Car.* 2. *cap.* 4.

By Transportation of Corn, Beer, Butter, Cheese, Herrings, and Wood, beyond Sea; and other offenders about Butter and Cheese. By 1 and 2 *P.* and *M.* 13 *Eliz.* 25. 21 *Jac.* 28. 1 *Jac.* 22. 25. 8 *Ed.* 2. 3. 13 *Eliz.* 12. 14 *Car.* 2. 3 and 4 *Ed.* 6. 21. 5 and 6 *Ed.* 6. 21. Transportation of *Butter* and *Cheese.*

In the Mill-Cards taking of excessive Toll, by 31 *Ed.* 1. *de Pistoribus.* Mill-Cards.

By keeping of Milch-Kine, and breeding of Calves. By 2 and 3 *P.* and *M.* 23. 13 *Eliz.* 25. Milch-Kine.

In the Conspiracy of Victuallers, or Labourers, to sell, or do their work at such rates: 2 *Ed.* 6. 15. 3 *Jac.* 11. 1 and 2 *Ed.* 6. 5. Conspiracy.

By the killing of Wainlings, under two years old to be sold, by 24 *H.* 8. 9. 1 *Jacob.* 25. So the Justices in Sessions hear and determine Riots, Routs, and unlawful Assemblies, by 13 *H.* 4. 7. 2 *H.* 5. 8. 8 *H.* 6. 14. 19 *H.* 7. 13. Wainlings. Riots, Routs, &c.

About the offences by Badgers and Drovers, by 5 *Eliz.* 12. Badgers and Drovers.

By the not barking of Oaken Trees felled, by 1 *Jac.* 22. So offences Bark of Trees.

By Captains and Souldiers, that abuse themselves about Musters, by 4 and 5 *Ph.* and *M.* 3. Souldiers in Musters.

By Ale-house-keepers, and Tipling, and Drunkenness, by 21 *Jac.* 4. *cap.* 4. 7 *Jac.* 10. 1 *Jac.* 9. 1 *Car.* 4. *Ale-house-Keepers, Tipling, Drunkenness.*

By Moss-Troopers, upon 14 *Car.* 2. *cap.* 22. So offenders in the Excise of Beer, Ale, &c. upon 15 *Car.* 2. *cap.* 9. and *cap.* 4. Moss-troopers, 12 *Car.* 2. Excise.

By Wax-Chandlers, by 11 *H.* 6. 12. *Wax-Chandlers.*

By making up, packing, and weighing of Butter, by 34 *Ed.* 6. 21. 21 *Jac.* 24. 14 *Car.* 2.

In Husbandry and Tillage, by 39 *Eliz.* 8. Husbandry, Tillage.

By

Concealment. By Jurors for Concealment, by 3 *Hen.* 7. 1.

Tile-making. In Tile-making, by 17 *Ed.* 4.4.

Forgery. By Forgery of Deeds, by 5 *Eliz.* 14.

Fairs and Markets. In Fairs and Markets, by 2 and 3 *Ph.* and *M.* 7.

Malsters and Malt. In the Sessions they are to restrain the superfluous number of Malsters, and punish the making of bad Malt, by 2 and 3 *Ed.* 6. 10. 5 and 6 *Ed.* 6. 14. 39 *Eliz.* 10. And of Ale-houses, 5 and 6 *Ed.* 6. 25.

Butter and Cheese. Restrain such as trade in Butter and Cheese, to trade in their own County for a time, 21 *Jac.* 22.

Houses of Correction. Order the erecting, and government of Houses of Correction, by 39 *Eliz.* 4.

Rogues and idle persons. Order all matters about Rogues, and punish many offenders against the Statutes about them, by 39 *Eliz.* 4. 7 *Jacob.* 4. 1 *Jacob.* 7. 43 *Eliz.* 2.

Poor. Order all things about the Poor, and punish many offenders against the Statutes about them, by 43 *Eliz.* 3. 14 *Car.* 2. So idle persons that will not work.

Licenses. Wine. There also they are to License such as may sell Wine in Corporate Towns, by 7 *Ed.* 6. 5. Badgers, Drovers, &c. to use their Trade, &c. and to transport Corn, Butter, &c. by 7 *Ed.* 6. 5. Any to shoot in a Gun for Hawking-bate, by 1 *Jac.* 27.

Usury. Punish Usury, upon 1 *H.* 6. 9. Taking above ten pound in the hundred, by 13 *Eliz.* 6. But not upon 21 *Jac.* 17. for taking of eight pound in the hundred.

Rates. In the Sessions they are to set the Rates, for the *King's Bench* and *Marshalsie*, by 43 *Eliz.* 2. Mariners and maimed Souldiers, 43 *Eliz.* 3. For the Prisoners in the Goal, by 14 *Eliz.* 3. 43 *Eliz.* 2. 14 *Car.* 2. For the building of *Bridewell*, 7 *Jac.* 4. For the Wages of Servants, 5 *Eliz.* 4. For Victuals and Victuallers, and Hostlers for their Horse-

bread,

bread, by 13 *R.* 2. 8. 23 *H.* 6. 13. For the Prizes of Barrels, Kilderkins, Firkins, &c. by 8 *Eliz.* 9. And here they are to give relief to such as are grieved by Rates, by 43 *Eliz.* 2. 3. 14 *Eliz.* 5. and others.

To make Officers.

In the Sessions, they appoint County-Officers, as Treasurers for the Mony, for the *King's Bench*, *Marshalsie*, Mariners, maimed Souldiers, Governors of *Bridewell*, Clerk of the Peace, Dressers of Cloth, Searchers of Leather, by 1 *Jac.* 22. Gawgers of Vessels, by 23 *H.* 8. 25. Conservators of Rivers, by 27 *R.* 2. 9. Collectors of the County-money, Masters of *Bridewel*, High-Constables, Pety-Constables. And here they may order these Officers, the Sheriff, and other Officers, 14 *Eliz.* 5. 30 *Eliz.* 4. 7 *Jac.* 4. 3 *H.* 8. 3. 1 *H.* 8. 7. 11 *H.* 7. 15. 27 *Eliz.* 12. Here they punish such as suffer Felons to escape, by 13 *R.* 3. 3. 3 *H.* 7. 1. And all that offend against 27 *H.* 8. 28. 23 *H.* 6. 11. 5 *H.* 4. 3. 14 *Car.* 2. Moss-Troopers. There also Recognizances are to be discharged; and from hence they are to be sent into the *Exchequer*, when they are forfeited. And here a Recognizance forfeited by an Ale-seller, may be sued out, by 5 and 6 *Ed.* 6. 25. Here they may dispose of the County-stock, for the relief of the Poor, and Punishment of Rogues, by 43 *Eliz.* 3. Here they may restore to a man his goods stoln, who hath by his industry procured the Felon to be indicted, and found guilty before them; by 21 *H.* 8. 11. Here much of the work is done, about the relief of maimed Souldiers, and of the Widows and Orphans of Souldiers slain; by 43 *Eliz.* 3. 14 *Car.* 2. Here Bail may be taken, as it may without the Sessions; and, in some Cases, where it cannot be taken without the Sessions;

To punish them. Escapes.

Recognizance.

County-stock.

Restitution of stoln goods.

Pensions to Souldiers.

ons; by 3 Ed. 6. 15. 1 and 2 *Phil.* and *Ma.* 13. 3 *H.* 7. 3. And here they may fine an Offender as they see cause; but their Fines must be just and reasonable; by 34 *Edw.* 19.

All these things they may do; but they must do them within, and not without their Sessions. And there, if it be for the punishment of Offences and Offenders, it must be done by way of Indictment, Traverse, *&c.* But finally, whatever may be done out of Sessions, *a Fortiori*, may be done in the Sessions, if it be not local in its Nature, and the Justices presence requites to do it in another place.

NUMB. II.

THe things the Justices may do indifferently within or without their Sessions: or partly within, and partly without their Sessions, are such as these things following [*In Spirituals*] They

Ministers. may punish such as disturb a Minister in the Publick Service; by 1 *Ma.* 3. 3. and 6 *Ed.* 6. 4. Such

Lords-Day. as profane the Lords Day; by 3 *Car.* 1. So Popish Recusants; by 3 *Jac.* 5. 35 *Eliz.* 2. So they are to do what they have to do about the punishment of the Mass, Jesuits and Priests; by 27 *Eliz.* 2. 2. 23 *Eliz.* 1. 33 *Eliz.* 2.

Forcible Entry, Riot, Rout, *&c.* In Civil Matters, such as shall offend by forcible Entries, Detainers, or by Riots, Routs, unlawful Assemblies; by 13 *H.* 4. 7. 2 *H.* 5. 8. 19 *H.* 7. 13. So about Felons, much is to be done within, and much without the Sessions.

Printing of Books. So they may punish the Offences about Printing of Books, by 14 *Car.* 2.

Drunkenness. So they may punish Drunkards and Drunkenness by 4 *Jac.* 5. and Offences in Inn-keepers, and such like;

like; by 1. *Jac.* 9. 1 *Car.* 4. 5. and 6 *Ed.* 6. 25.

So they are to punish such as do unlawfully hunt and steal Deer, Conies, Fish, Hawks, Eggs, *&c.* by 5 *Eliz.* 21. 3 *Jac.* 13. Hunting, Hawking, *&c.* Deer, Conies.

Such as kill Pheasants, *&c.* upon 1 *Jac.* 27. 23 *Eliz.* 10. And such as keep Deer-Hays, Buck-stall; or stalk with any Bush or Beast; or take young Herons out of their Nests, 19 *H.* 7. 11. Deer-Hays, *&c.*

And such as keep Dogs to hunt, or use Ferrets, Hays, Nets, 13 *R.* 2. 13. Dogs, Ferrets.

Such as offend about Prisoners, and Goals; by 5 *H.* 8. 10. 23 *H.* 8. 2. 3 *Jac.* 10. Prisoners.

And such as offend about Cross-Bows, and Hand-Guns; by 33 *H.* 8. 6. 2 and 3 *Ed.* 6. 14. Cross-Bows and Hand-Guns.

And such as offend by Armour, or by going, or riding in Armour; by 2 and 3 *Ed.* 3. 3. 7 *R.* 2. 13. 20 *R.* 2. 1. Armour.

And Purveyors, upon 14 *Car.* 2. and such as offend by Purveyance. Purveyors.

And such as offend about the Excise and Customs; by 12 *Car.* 2. Excise and Customs.

So all Offenders about Woollen and Linnen-Cloth; by 1 *Eliz.* 12. 39 *Eliz.* 20. 21 *Jac.* 18. 28. 3 and 4 *Edw.* 6. 2. 4 *Jac.* 2. 43 *Eliz.* 10. 23 *Eliz.* 9. 5 and 6 *Ed.* 6. 5. 22. 36 *Eliz.* 11. 4 and 5 *Phil.* and *Ma.* 5. Cloth and Clothiers.

By Logwood, 39 *Eliz.* 11. 1 *Jac.* 6. Logwood.

So some Offenders about the High-waies; by 2 and 3 *Phil.* and *Ma.* 8. 5 *Eliz.* 13. 18. *Eliz.* 10. 14 *Car.* 2. High-waies.

So are they to punish many of the Offences about Rogues; by 39 *Eliz.* 4. 14 *Car.* 2. Rogues.

So many Offences about the Poor; by 43 *Eliz.* 3. 14 *Car.* 2. Robbery.

So some Offences by Captains and Soldiers; by 2 Ed. Captains & Soldiers.

3 Ed. 6. 2. 18 H. 6. 19. 7 H. 7. 1, 2. 3 H. 8. 5. 43 Eliz. 2. 3 H. 6. 1.

Officers. So Officers, for many things about their Offices, as Coroners, for some neglect of their Office, or taking of more then their distress; by 1 H. 8. 7.

Coroners. So some of the Defaults of Coroners, and of all other Counties, Hundreds, and Parish-Officers, that are not Special Officers; by 8 H. 6. 9. 11 H. 7. 15.

So some of the Defaults of Sheriffs, and their Bailiffs; by 42 Ed. 3. 9. 2 H. 6. 9 23 H. 6. 10.

Masters, Labourers, Artificers, and Servants, rating Wages. So they may within and without the publick Sessions, rate the Wages of Servants, Labourers, and do what they have power to do herein, &c. Ed. 6. by 5 Eliz. 12. 39 Eliz. 12. 1 Jac. 6. 2 and 3 Ed. 6. 16. 21 H. 8. 7. 1 Jac. 17. 3 Jacob. 9. 3 Ed. 6. 15.

So they may discharge Ale-houses; by 5 and 6 Ed. 6. 25. 2 H. 5. 4.

Poor. So the Relief, Settlement, Order, and punishment of the Poor, and the Officers that have to do with them, is much of it to be done within, and much of it may be done without the Sessions; by 39 Eliz. 4. 42 Eliz. 2.

Transportation, Importation. So that they have to do about Transportation and Importation, is some of it to be done without, and some of it within the Sessions; by 14 Car. 2. 3 Eliz. 3.

Malt and Malsters. So about Malt and Malsters; by Edwar. 6. 10. 39 Eliz. 2. 16. 1 Jac. 25. 11 Jac. 28. 27 Eliz. 14.

To make Licenses. So they may License the selling of Ale; by 5 and 6 Edw. 5. 26.

Some Licenses may be made without, and some may not be made, but within Sessions.

So

So that which is to be done about Crows, by 4 *H.* 8. 10. Crows.

Some Rates may be made out of the Sessions, and some must be made in the Sessions. See afterwards.

So they may set the Rates for Ale and Beer by 23 *H.* 8. 4. Rates for Ale & Beer.

So they may set a Rate to relieve places infected with the Plague, by 1 *Jac.* 13. And do much of that to be done about this without; and some must be done within the Sessions, 1 *Jac.* 31. For the Plague.

There is much to be done about Purveyance by them within and without the Sessions, by 12 *Car.* 2. and 13 *Car.* 2. 14 *Car.* 2. *Cap.* 31, Purveyance.

There is much about Fish and Fishing to be done within, and some without the Sessions, by 1 *Eliz.* 17. 5 *Eliz.* 5. 21. 3 *Jac.* 12. 1 *Jac.* 23. *infra.* 2. 43. Fish and Fishing.

So about Horses, there is somewhat to be done without, and somewhat within the Sessions, by 33 *H.* 8. 13. 31 *Eliz.* 12. Horses.

So many things are to be done about a Robbery, by 27 *Eliz.* 13. Robbery.

So they are to make their Estreats of the Fines and Forfeitures before them double, and set their names to them, and deliver one part thereof to the Sheriffs, 14 *R.* 2. 11. Estreats of Fines, &c.

About weights & Measures, they have something to do without, and something they may not do, but within the Sessions, by 17 *Car.* 19. Weights & Measures.

So the Justices of the Counties, adjoyning to Thames, are to hear and punish the Offences by Water-men, by 2 and 3 *P.* and *M.* 16. Watermen upon Thames.

So Orders about Tile, and the matters about it, are to be punished, and done in, and out of the Sessions, by 17 *Ed.* 4. 4. Tile-making.

Trade and Manufacture.

So about Trade and Manufacture, they have power to do something without, and something only in the Sessions, by 14 *Car.* 2.

So upon 1 *Jac.* 6. 2 and 3 *Ed.* 6. 10. 17 *R.* 2. 9.

So to punish offences in the Fens in *Northampton-shire, &c.* upon 15 *Car.* 2. So such as offend in the Kings hearth-money, upon 16 *Car.* 2. cap. or, 14 *Car.* 2. cap. 10.

They also, in or out of the Sessions, administer Oaths to Sheriffs, Constables, Officers of Excise, Overseers of Cloth, Overseers of them infected with the Plague, Officers and Souldiers of the *Militia*, under Conservators of Rivers, when they come into their Offices.

So for surety of the Peace, upon a Robbery, and elsewhere. And the taking of Surety of the Peace, or good Behaviour, may be within, or without the Sessions.

NUMB. III.

THE things that they may do, or are to be done only, or most properly and frequently out of the Sessions, are the things that follow, (*viz.*)

[*In Spirituals.*]

Swearing and Cursing.

So they are to punish profane Swearing and Cursing, by 21 *Jac.* 20.

Coming to Church.

Such as come not to Church every Lords-Day and Holy-day, by 1 *Eliz.* 2.

Sabbath.

Such as profane the Sabbath, and keep not Holy-dayes, by 2 and 3 *Ed.* 6. 19. 1 *Car.* 1. 3 *Car.* 1. 3 *Jac.* 5. 21

Recusants.

Popish Recusants, and what concerneth them is most of it to be done out of the Sessions, by 1 *Eliz.* 2.

So they may, without any Sessions, require, and minister the Oaths of Supremacy and Allegiance, and some other Oaths, by 1 *Eliz.* 1. 5. 3 *Eliz.* 1. 3. 4. 7 *Jac.* 6. Oath of Supremacy and Allegiance.

So they may give, and take divers Oaths; as of the Sheriffs, his Deputies, Constables, &c. Other Oaths.

So they may take Surety of the good Behaviour of such as are put of good name, by 34 *Ed.* 3. 10. So Surety for the Peace, where it is to be granted, may be taken. Surety of the good Behaviour, and of the Peace.

So they may hear, determine, and punish some of the offences, about the taking of Pheasants, Partridges, and with Nets; and examine suspected offenders, by 11 *H.* 7. 17. 23 *Eliz.* 10. 1 *Jac.* 27. And most of all this out of any Sessions. Pheasants and Partridges taken with Nets.

So they may act somewhat about the Commission of Sewers, by 13 *Eliz.* 2. 9. Sewers.

So any one of them may take the examination of them that have been robbed, by 27 *Eliz.* 13. out of any Sessions. Examination of one robbed.

The Justices may enter into a Merchants house, which denyes to sell Wine at the price assessed, and sell the Wine, by 24 *H.* 8. 6. 37 *H.* 8. 32. 5 *Ed.* 6. 17. Wine.

So they may help to divide a Wood, where the Owner and Commissioners thereupon cannot agree, by 35 *H.* 8. 17. out of Sessions. Wood.

So they confirm many Rates to the Poor, Highwaies, and others, out of any Sessions. And some Rates they make out of their Sessions; as upon a Robbery for Contribution, and Division of a charge upon a Hundred, and others. Rates made, confirmed.

Two Justices may cause a Rate to be made and levied, to relieve a place infected with the Plague, by 1 *Jac.* 31. out of any Sessions. Plague.

Feasts. So Justices may in Lent enter into houses suspected, to dress meat in Lent, to search, &c. 3 Car. 4. 5 Eliz. 5.

Guns. So a Justice may take the Presentment of him that useth a Hand-Gun, upon 2 and 3 Ed. 6. 5. out of Sessions.

Pewter, Brass. So the Justices may, out of Sessions, appoint two experienced persons in Pewter and Brass, to make search thereof, by 19 H. 7. 6. 4 H. 8. 7.

Purveyance. So they have much to do there about Purveyance, by 14 Car. 2. And they do this out of Sessions.

Accounts. So they may call the old Treasurers to an account, by 14 Car. 2. out of Sessions.

Trespasses. So any one Justice may punish Trespassers in Orchards, Gardens, Hedges, &c. by 43 Eliz. 7. and this out of Sessions.

Ballard-Child. Licenses. So two Justices are to take order for the punishment of the Mother, and reputed Father of a Ballard-Child, and for the keeping it from being a charge to a Parish, by 18 Eliz. 2, 3. 1 Jac. 25. And this they do out of Sessions.

So the Justices may make many Licenses out of Sessions, 5 Eliz. 12. 5 and 6 Ed. 6. 14. 13 Eliz. 13.

Sheriffs. So two Justices may examine Sheriffs, &c. of their entry of Plaints, and execution of Process, by 10 H. 7. 15. 1 Ed. 4. 2.

Masters, Servants, Labourers: And so two Justices may keep a special Session to punish the offences between Masters and Servants, by Eliz. 4. And divers other things the Justices have to do upon that Statute out of Sessions.

Recognizances. So the Justices do take many Recognizances out of Sessions.

Mariners, Fisher-men. So no Fisher-man may be taken to serve the

King as a Mariner, but by the advice of two Justices of Peace, by 5 *Eliz.* 5. This may be out of Sessions.

So any Justice may send his warrant to search for manufactures of foreign Bone-laces forbidden to be imported into this Kingdom, and if upon search he find any such, may seize it by 14 *Car.* 2. cap. 13.

One Justice may on complaint to him of idle persons that flock about Boats, Nets, or Cellars belonging to the Pilchard Craft in the Coasts of *Cornwall* or *Devonshire*, on complaint to him, make him pay 5 *s.* to the poor of the place, or set him in the stocks 5 hours, by 14 *Car.* 2. cap. 31.

It is said by *Barkley* Justice, that a Justice may accept money *in deposito* for security of the Peace, *Cro.* 3. 322.

So one or more Justices are to do much about a forcible Entry or Detainer, by 5 *R.* 2. 7. 15 *R.* 2. 2. 8 *H.* 6. 9. 31 *Eliz.* 11. 21 *Jac.* 15. Forcible entry and Detainer.

Two Justices may commit him that wilfully refuseth to pay his Tythe, by 27 *H.* 8. 20. and this may be out of Sessions. Tithes.

One Justice may joyn with the Clerk of the Peace to inroll a Deed, by 27 *H.* 8. 16. out of any Sessions. Inrolment of Deed.

In *London* they are to assist the Colledge of Physitians, by 1 *Mar.* 9. 14 *H.* 8. 5. This may be out of Sessions. Physitians in *London*.

Some Officers may be made by them out of Sessions, as some are made in the Sessions. See afterwards, *Chap.* 39. Officer.

Such as steal wood and Timber, to be punish'd for it, upon 15 *Car.* 2. cap. So such as offend by Conventicles, may be proceeded against out of Sessions, upon 16 *Car.* 2. cap.

Treason.

But the Justices have nothing to do in, or out of Sessions (except to examine, send to Goal, and bind over, &c.) with offenders in Treason, upon 1 *Eliz.* 1. 5 *Eliz.* 4. 1 *Jac.* 4. 3 *Jac.* 5. 13 *Eliz.* 2.

Records imbezelling.

Nor with Felonies, by imbezelling of Records, upon 8 *H.* 8. 12.

Masons.

By Confederacy of Masons, upon 3 *H.* 7. 2.

Carrying away a Woman.

For carrying a Woman against her will, upon 3 *H.* 7. 2.

Bigamy.

For double Marriage, upon 1 *Jac.* 11.

Witchcraft.

For Witchcraft, upon 1 *Jac.* 12.

For a Gaoler to make his Prisoner to approve, upon 14 *Ed.* 3. 9.

Levying a Fine in anothers name.

For the levying of a Fine, or suffering a Recovery, entring into a Statute, or giving Judgement in anothers name, upon 21 *Jac.* 29.

Imbezelling his Masters goods.

For a person imbezelling of his Masters goods, upon 21 *H.* 8. 7. 5 *Eliz.* 16.

Burning of houses.

For burning of a house, or the frame of a house, upon 37 *H.* 8. 6.

Bows.

Nor have they any thing to do with the offences about prices of Bows, 8 *Eliz.* 16.

Forein Wares.

Bringing in of forein Wares, upon 5 *Eliz.* 7.

Cattle.

By selling of Cattle, upon 3 and 4 *Ed.* 6. 19.

About Bears, upon 12 *Ed.* 4. 2. 1 *R.* 3. 13.

By a Servants wasting his dead Masters goods, upon 21 *H.* 8. 7.

In Cloth, upon 43 *Eliz.* 14. 27 *H.* 8. 12.

In Woollen Yarn, 7 *Ed.* 4. 3.

By Coopers, upon 23 *H.* 8. 4. 31 *Eliz.* 8.

By the Clerk of the Markets, upon 13 *R.* 2. 4.

By Sheriffs, upon 1 *Ed.* 4. 2. 4 *Ed.* 3. 10. Of Maintenance and Champerty, upon 32 *H.* 8. 9.

By

By Usury, upon 21 *Jac.* 17. But upon 37 *H.* 8. 9. they have to do, by 23 *Eliz.* 8. Or Forgery, by 5 *Eliz. Cro.* 1. last published, 601. But perhaps, as it is an offence at Common-law, they have to do with it. Nor about Inn-holders, upon 13 *R.* 2. 8. and 4 *H.* 4. 25. for taking above a half-peny in a Bushel for Oats, above the common price.

Nor upon the Statute of 23 *H.* 8. Chap. 4. for selling Beer at a highet price than is set down, *Cro.* 3. 79.

If an Inhabitant refuse to serve as Constable, the Justices may not commit him to Gaol, but they must cause him to be indicted, and set a Fine upon him, *Cro.* 3. 409.

NUME, IV.

The way of the Justices proceeding.

AND for the manner of the Proceeding of Justices, and the means they use for the exercise and exertion of their power, before laid down, this is to be known.

Within the Sessions.

First, That within their Sessions (as to the punishment of the offenders before-mentioned) the most they do, is by way of Indictment, or Information, or Presentment, a Traverse to it, and a Tryal by a Petit Jury; and so by Judgement and Execution thereupon. But in some special Cases, and upon some special Statutes, there is another way of Tryal. And here they make Orders about settlement of the Poor, Rates, and divers other things, referring to the particular Heads before-named.

But more particularly, in the Sessions, an Indictment or Presentment will lye for all the offences, and in all the Cases following; that is to say,

For

Pardon, and for what Offences, a man may be indicted or profecuted in a Seſſions.

Felony.

For a Felony
- For any Felony at Common-Law, *Cro.* 1. 274.
- For ſuffering a Felon to eſcape, *Cro.* 1. laſt publiſh'd, 752.
- For endeavour to poyſon a man.
- For one that hath dangerouſly hurt another, that he is like to die.

Reſcous.

For a Reſcous
- For a Reſcous of any Offender, eſpecially a Felon, *Cro.* 2. 345. *Bulſtr.* 1 Part 204. *March, Rep. Pl.* 105.

Eſcape.

For ſuffering of any Offender to eſcape, eſpecially a Felon.

Treſpaſs.

For a Treſpaſs
- For a falſe Imprisonment, *Stiles Rep.* 24.
- For a Maim, or for an Aſſault & Battery, *Dyer* 285.
- to that which is
  - In lands, or Goods,
    - Breaking of a houſe, or Cloſe-breaking, or
    - taking away of goods

Nuſance.

For a Nuſance.
- For ſetting up of a Dye-houſe, Houſe of Office, Hot-Water-houſe, or the like houſe, that is a Nuſance to any houſe, *Stiles Rep.* 314.
- For ſtopping, or diverting a Water-courſe, *&c. Stiles Rep.* 314. *Bulſtr.* 2 Part 119.
- By not repairing; by digging Pits, *&c.*

For

For Fore-stalling, Regrating, and Ingrossing, *Stiles, Rep.* 217. Fore-stalling, Regrating, and Ingrossing.

As an offence at Common-Law, or upon the Statute, *Cro.* 1. 277.

For a Slander. { *Scandalum Magnatum*; as a breach of the Peace, and offence at Common-Law, *Stiles Rep.* 245. So it seems for the slandering of other men, especially Magistrates, *Stiles Rep.* 254. } Scandal.

For a Ryot, Rout, and unlawful Assembly either at Common-law, or upon the Statute. { Alone. Joyned with notorious Trespasses; calling down Houses, Pales, Heads of Fish-Ponds, *&c. Stile's Rep.* 191. *Cro.* 1. 562. *Bul.* 1. Part 207. } Ryot, Rout, unlawful Assembly.

About a forcible Entry, or Detainer, *Stiles Rep.* 137. 84, 87, 123, 135, 136, 146, 174, *Cro.* 1. last published, 697, 698, *Cro.* 2. 639. 17, 19, 31, 41, 214. *Coo.* 4. 48. *Bulstr.* 1 Part, 177, 201. 2 Part 121. *Latch's Rep.* 225. Forcible entry, or Detainer.

For Extortion, and that upon the Common-Law, or upon some of the Statutes, *Stiles Rep.* 430, 434. { *Leonard Rep.* 295. } Extortion.

For Perjury, and subornation of Perjury; and this by the Common-Law, or upon the Statute, *Stile's Rep.* 337, 374, 116, 126, 374. *Cro.* 1. 235, 256. *Bulstr.* 3 Part 222. Perjury.

For Deceit used by Forgery of Letters, or false Tokens, to get Money or Goods from a man, *Stile's Rep.* 145. 12. Counterfeiting of Tokens, &c.

For

Barretry. For Common Barretry, *Stile's Rep.* 29, 30. *Cro.* 2, 527. *Cro.* 1. 248. *Latch's Rep.* 194.

Usury. For Usury, if it be grounded upon 37 *H.* 8. 9. by 13 *Eliz.* 8. for ten pound in the hundred. But not upon 21 *Jac.* 17. upon the Contract for eight pound in the hundred pound.

Night-Walkers. For being a Night-Walker, *Latch's Rep.* 193.

Ever-Dropper. For being an Ever-Dropper.

Incontinency. For Incontinencie, { For keeping a Common Bawdy-house, *Stile's Rep.* 326. For attempting to ravish a Woman.

Deceit. For Deceit by cheating at Play.

High-ways. About High-waies, Bridges, and Streets. { For an Incroachment, *Cro.* 1. last published, 231. For stopping of it, *Latch's Rep.* 183. For Nusances, *Cro.* 1. 421. *Bulstr.* 1 Part, 203. *Marsh. Rep. Pl.* 71. For not repairing of them *Stile's Rep.* 108, 157, 163. 400. *Cro.* 2. 616. *Marsh. Rep. Pl.* 71. For not doing their appointed work.

By Officers,
- For refusal of their Offices of Constable, Overseers of the Poor, &c. *Stile's Rep.* 394.
- For neglect of their Offices, *Cro.* 1. last published, 655.
- For the Constables neglect in the execution of the Justices Warrant.

In Ale-houses, and Ale-house-keepers.
- For selling without Licenses.
- For taking excessively for Hay and Oats.
- For keeping of evil order, upon 1 *Jac.* 9.
- For breaking of the Assize, and keeping Gaming, upon 1 *Jacob.* 9.
- For staying above an hour in an Ale-house.
- For harbouring idle and suspitious persons.

By *Games* and matters of pleasure.
- For keeping of unlawful Games in his house.
- For killing of Hares in the Snow upon 14 *H.* 8. 10. 1 *Jac.* 27 *Butter.* 3 Part, 178.
- For Hawking in Corn, upon 23 *Eliz.* 10.

Offices.

Ale-houses and Ale-house-keepers.

Games and Pastimes.

About

Hue and Cry.

About *Hue and Cry.*

For not raising *Hue and Cry* after a Felony done in the night, being a Constable, and required to do it, *Cro.* 1. last published, 655.

Striking in a Church, or Churchyard.

For striking in a Church, or Church-yard, or drawing of a Weapon there, *Cro.* 3. last published, 200. *Noy's Rep.* 171. upon 5 and 6 *Ed.* 6. 4.

Recusancy, and not coming to Church to take the Oaths.

For Recusancy, *Cro.* 1. 362. 430. *Bulstr.* 1 Part, 197, 198. *Leonard's Rep.* 325, 326, 322., *Goldsb.* 162.

For refusing to use the Book of Common-Prayer.

Disturbance of a Minister.

For disturbing of a Minister in the Publick Service, upon 5 *M.* 3.

Minister refusing to administer the Communion.

Against a Minister refusing to administer the Communion, upon 1 *Eliz.* 2.

Guns, Cottages, and Inmates

For shooting in a Gun, not having one hundred pound a year, upon 33 *H.* 8. 6.

For the setting up, and continuance of Cottages; and about the placing, or continuance of Inmates, *Stile's Rep.* 33. *Cro.* 2. 693.

Masters, Servants, Apprentices

By Masters, Servants, and Apprentices.

For using a Trade, not being an Apprentice to it seven years, *Stile's Rep.* 449.

For a Masters undue putting away of his Servant.

For abusing an Apprentice.

For enticing of Servants from their Masters.

For a Servants departing from his Master.

By

By Inn-keepers, Hostlers, &c. } For taking more than the Rate allowed, 13 R. 2. 610, 611.

Inn-keepers and Hostlers.

By a Badger, Drover, &c. } For using the Trade without License, upon 5 Eliz. 14.

Badger, Drover.

For cutting of Horse-Tails. } For these, and many other such like offences as these, any man may be indicted, or presented before the Justices in their Sessions of the Peace.

But yet further, for the better understanding of the Law in this; and for the knowledge of the offences, within the Conusance of the Justices of the Peace, these things are further to be known.

1. That for any offence, by Word or Deed, that was an offence at Common-Law, and was *contra pacem*; a man is indictable in this Court before the Justices of the Peace. And therefore it is generally held, That for all Trespasses done by Force, upon which an Action of Trespass may be brought; so as for breaking of ones house, entring and earing of his ground, spoyling of his Corn, breaking, or taking away of his goods, or the like; for all these things, a man may be here indicted. So for wrongs done by fraud and deceit. As for a Conspiracy to endict. For Libelling and slandering, where the words are Actionable at Law. So for selling deceitful Wares, or by false Weights or Measures; for selling to another that which is not his own; or for selling corrupt Victuals, for playing with false dice.

Trespasses. By Force.

By Fraud. Conspiracy. Libelling. Slandering.

Deceit.

Or

Miller. Or being Miller, for changing of my Grist; for any kind of Nusances, and for all such like wrongs: for remedy whereof, in the Action brought by him that is wronged, he doth say in his Writ, it is *contra Pacem*: for every such thing a man is indictable, and punishable in this Court by Indictment. And so the offender is liable to the Parties Action for his private wrong; and for this he shall recover damages for his amends. And he is liable also to Indictment for the publick offence, which any man may promote; and for this the Offender shall be fined and imprisoned.

2. That where an offence, that was an offence at the Common-Law, is also made an offence by a Statute-Law, and a certain punishment appointed to it by the Statute: but this Statute hath not given to the Justices of the Peace any power in it; there, this offence may not be punished upon the new Statute. And therefore an Indictment for this offence, *contra formam Statuti*, is not good before these Judges. But a man is still indictable for the offence before them, as it is an offence at the Common-Law, and their Power is the same that it was before the Statute. And so a Riot, a *Scandalum Magnatum*; and the like offences by the Common-Law, that by some Acts of Parliament are heightned, and made greater; albeit, they be not here indictable upon the Statutes; yet are they here still indictable, as offences at the Common-Law.

3. That in Cases, where a Statute-Law doth create a new offence, where none was before; as by shooting in Gunning, taking Hares, or the like. And the Statute doth not say, how the offender shall be punish'd for it, what Court shall have Conusan-

of it, and who shall proceed in the execution of it; there the breach of the Statute may be punished in one Court or another. For if a Statute do forbid, or command any thing, and doth not appoint any punishment upon him that doth break it; yet he may be punished for this Contempt, by Fine and Imprisonment, in one Court or another. But unless the *Statute* do in expreſs terms give to theſe Justices of Peace a Power to hear and determine the thing, they may not meddle with it in this Court upon the Statute, but ſo far forth as it is againſt the Peace, and within any Article of their Commiſſion by the Common-Law, they may meddle with it.

NUMB. V.

FOr the exercise and execution of the Power of the Justices out of their Seſſions, they do this many ways, and by many means. Sometimes in a ſpecial Seſſions, upon a Forcible Entry, or the like; their proceeding herein is ſomewhat after the manner and order of their proceeding in the General Seſſions. But otherwiſe, their proceeding and way for the doing of their work is by *Warrants*, *Mittimus*, *Recognizance*, *Certificate*, *Examination*, *Confirmation*, *License*, and the like.

For their Warrants out of Seſſions, they do iſſue them out in ſuch like Caſes as theſe: Warrants of Juſtices.

About Rogues, and Vagabonds. { To attach them. / To paſs them. / To ſend them to *Bridewell*. } Rogues.

About

Peace and good Behaviour.

About the Peace, and good Behaviour.
- To require them to give Sureties.
- To send them, refusing, to Gaol.

Ryot, Rout, Forcible Entry.

About a Riot, Rout, &c. or Forcible Entry, or Detainer.
- To summon a Jury,
- To call for the Sheriff for *Posse Comitatus* to suppress it, make an order, send for, and punish such as refuse to obey it.

Bastard, and the reputed Father.

About a Bastard, and the reputed Father of it.
- To call the Parties and Witnesses before them to examine the matter.

Felon.

About a Felon and a Felony, or a Traytor and Treason.
- To bring the Felon before him.
- To search for stollen goods.
- To give evidence against the Felon.
- To apprehend, and to commit him.

Ale-houses, and Drunkenness.

Concerning Ale-houses, to execute the Penalties the Statutes; And for Drunkenness and Tipling: Not keeping the Assizes, &c. selling without License, &c.

Poor.

touching the Poor.
- To call in the old Overseers.
- To make new Overseers.
- To confirm the Rate for them.
- To levy the Money rated.
- To settle, or send, a poor Person to his place.
- To send to *Bridewell*.
- To send to Prison, for lack of Distress.
- To levy the Penalty, for neglect in their Office.

To

To call Victuallers and Ale-house-keepers in, to enter into Recognizances. Victuallers, Ale-house-keepers.

To levy the Penalties of the Statutes, for profaning the Lord's Day. Lords-Day.

About Servants; Masters, and Apprentices, in many particulars. Masters and Servants.

For refusing Apprentices, placed with them. To bind Apprentices. To command the idle to go into service. To punish naughty Servants, Masters that abuse servants, pay not wages, and in other cases.

But for a Warrant from a Justice, to bring a man to him; To answer all matters objected. To send to take one for Cousenage. To take, and bring to a Justice; or to Gaol, one that another doth suspect of Felony; especially, where the matter is small, or suspition sleight. Dangerous Warrants to be made by a Justice.

To License a Petty-Chapman to sell from house to house: To send a poor body to a place, otherwise then the Law directs, and the like: We look upon these Warrants, as unwarrantable. Unlawful Warrants.

2. By *Mittimus*: and so they do usually make a *Mittit mihi* in these following Cases. To send a Felon to Gaol. To send to Gaol one that hath dangerously hurt a man; and in many other Cases. Mittimus of a Justice.

To send to Gaol, all such as refuse to be bound for the Peace, or good Behaviour, or other Case, where by Law he ought to be bound with Sureties, or otherwise, as to appear at Sessions, or the like. Peace and good Behaviour.

To supersede a Warrant, or discharge such as are bound.

To take Bail of a Prisoner; and then to require him to be discharged of his Imprisonment. Bail.

Watch and Ward. To sit upon Officers, to keep Watch and Ward.

All these, and many other such like Warrants, the Justices have power to issue out, and do grant out of Sessions.

Taking Recognizances. 3. They execute their Office out of Sessions also, by taking of Recognizances. And so they use to take Recognizances in these following Cases.

For the Peace. For the good Behaviour. For keeping good order by an Ale-house-keeper. To appear at Sessions, to answer an offence. To prefer an Indictment, and give Evidence at Sessions: To bail a Prisoner; and in other Cases.

Licenses. 4. So by giving of Licenses; as to a Badger to be a Badger, of a Drover to drive Cattel. To a poor person to pass, and some others.

Confirmation. 5. Something they are to do out of Sessions, by way of Confirmation. So they confirm the Rate for the Poor, High-ways, and others.

Informacion, Examination. 6 Some of their work lyeth in taking of Informations and Examinations: As Informations against a Felon, and other offenders in many Cases. The taking of the Examination of one that hath been robbed. The Examination of a Felon, and the like.

Certificate, or Testimonial. 7. Some things they do out of Sessions, by Certificate, or Testimonial; as about a Trained Souldier, about a Vagrant, and the like.

Release, or Discharge. 8. Something they do by way of Release, or Discharge. So they do release the Peace, or good Behaviour, in some special Cases. So they discharge their own Warrants, and mens obedience to them.

Justices

Justices of Peace may not in their Sessions hear, try and determine Civil offences, as upon an Information or the like in one day, or at any Sessions; there must be a reasonable time for it. *Cro. 3. 216, 333.*

We shall descend to all these Particulars after a while, and speak further to them apart, and by themselves, after we have laid down some general things, referring to the Office.

SECT. IV.

Of the power of the Justices of the Peace in general.

NUMB. I.

AS to this Point, it is to be known, That the Justice of Peace his Power, is derived and given him two ways.

How derived, and come to them.

First, By the Common-Law, as it is given to him by the Commission of the Peace; the which, in general, is to keep the Peace of the County.

Secondly, By divers Acts of Parliament; some of which are for the punishment of divers offenders, for offences by them done. And some of them for doing of other things, necessary to be done, in order to the Government of the County, as for the making of Officers, setting and regulating of Rates, and the like. And so their Office generally lyeth in this, to relieve the oppressed against the Oppressor, *4 H. 7. Chap. 12.*

NUMB. II.

Over whom it is.

2 THE Power that the Justices have in their County, is over all persons therein (except onely their fellow-Justices, and the Corporations, or other places in the County that are exempted, having Justices of Peace amongst themselves.) And therefore one Justice may not amerce another Justice, for his not appearance at Sessions; as the Judges may amerce the Justices for their not appearing at the Gaol-delivery; nor can one of them imprison another, *Inter pares non est potestas.* And yet a Justice is indictable at the Sessions, for an offence, as another man is; and there he may be committed for the breach of the Peace. *Lamb. 385 Tenth Centurye Page 174. 3. H. 7. Fitz. Justice of Peace 3.*

NUMB. III.

Where it may be exercised, and used.

3 THE Power of the Justice, may some of it be acted in any place out of the County; but some of it not. So a Justice may take the Oath of a man robbed, touching his knowledge of the party that robbed him. So he may take a Recognizance, by Supplicavit, in any place out of the County. So he may take Informations against Malefactors, for any thing done within the County; in cases where any man will voluntarily give these things. But he may not exercise any coercive Power; as commit for Felony, or other offence, to Prison; take a Recognizance, make an Order about a Bastard Child, or prosecute upon it, or about Labourers, in any other such like thing, or

of his own County, upon 18 *Eliz.* or upon 5 *Eliz.* *Cro.* 2. 154. *Mich.* 7. *Jac.* B. R. *Rowe's* Case. *Cro.* 3. 154. 248. 255. 338.

NUMB. IV.

THE General, or Quarter-Sessions, to be kept for the County, is to be kept but once a Quarter; and this at the times appointed, and now used. But it may be kept in any place of a County, where it is not by some Act of Parliament, to be kept in a certain place of the County. And the Special, or privy Sessions, may be kept otherwhere, as the Justices please. Sessions, when to be kept, and where.

NUMB. V.

BY all that hath been said hitherto therein, it appeareth, That there are somethings about the Office of the Justice, that doth refer to Spiritual, or Ecclesiastical Matters, such as these, *Preachers* and *Preaching*, *the Book of Common-Prayer*, *coming to Church*, *the Sacraments*, *the Ceremonies and Rites of the Church*, *special Meetings to that ends*, *Quakers*, *Conventicles*, *Oaths*, *Declarations*, and *Subscriptions* about Matters of Religion, *Holy-Days*, *Holy-Days*, *Fasting-Days*, *Churches*, *Church-stalls*, *Church-yards*, and such like matters. Wherein the Justices Office lyeth.

But for the pretended Acts and Ordinances concerning Blasphemy, Heresie, upon *August* 8. 1650. *May* 2. 1648. *August* 21. 1645. *September* 17. 1656. *February* 9. 1646. *April* 8. 1648. *April* 19. 1650. These are now out of doors, and the Justice of Peace, by his Office, hath nothing to do upon them.

The rest of his Office, is about Civil and Secular Affairs; As about the Peace of the Kingdome, wherein he is to take care, as to prevent the breach of it, before it be made; so to punish it, when it is broken. And for this, the Justices, as they are come in the Room, so they have the name of *The antient Conservators of the Peace*. And so he hath power to punish divers Offences; as Felonies, Riots, Routs, and the like, that tend to the breach of the Peace, and to do many other things, for the better government and ordering of the Commonwealth. And his Power for the doing hereof, is to be exercised, and executed by him partly, in the Sessions; and partly, out of the Sessions.

Sessions.

And in the Sessions, any two Justices, *quorum unus*, may do all that is to be there done, save only some few things, that by the Letter of some Statutes, is directed to be done by more then two Justices.

But these Justices have no power either in, or out of their Sessions, to punish offenders for Witchcraft, by 1 Jac. 12. Nor Offenders by multiplication of Gold, or about Sheep, by 1 Conspiration of Slaves, by 5 H. 4. 4. 3 H. 6. 1. 8 Eliz. 3. Nor the offence of a Soulder, conveying away Horse and Arms, &c. by 3 H. 7. 7. 31 Eliz. 4. Nor the offence of levying a Fine, suffering a Recovery, cutting into a Statute, &c. upon another man's Land, by 2 H. 7. 11. 11 H. 7. 24. 32 H. 8. 9. 34 H. 8. 24. 4 & 5 P. & M. 8. 13 Eliz. 5. 14 Eliz. 8. 18 Eliz. 10. 27 Eliz. 4. 31 Eliz. 5. 35 Eliz. 1. 39 Eliz. 18. 43 Eliz. 4. 1 Jac. 15. 21 Jac. 26. 1 Car. 3. 3 Car. 1. 16 Car. 7. February 9. 1646. April 19. 1650. These are now out of doors, and

NUMB. VI.

6 AND there are these things further to be known, as touching the Powers and Duty of this Office, in the general; especially upon the Statutes.

1 That where a Power is given to him, to commit to Gaol, he may not commit to *Bridewell*. And so on the other side, If Power be given to commit to *Bridewell*, he may not commit to Gaol. If power be given to him to commit for three dayes, he may not commit for longer time then three days. But if power be given to him to commit to Prison, and say not how long, he may commit to Prison by this, till by Law he be discharged, which he may be at Sessions. Expositions of Statutes.

2 That regularly, what the Justices have power to do, it is their duty to do. And what is their duty to do, is in their power to do.

3 That what any private man, or inferior Officer may do, to the keeping of the Peace, the Officer may much more do. Aid to Justices.

4 That any Justice in the execution of his Office to apprehend Felons, keep the Peace, and the like, may require the assistance of what able men he pleaseth. And they being so required, must do it, or they may be punished for their Refusals. Pers. Commorum.

5 That the Justices may, now in, or out of Sessions mitigate the Fine or Penalty appointed by any Statute-Law for an offence done, as for Swearing, or the like. And yet in such cases the Offender, by a special Plea, and submission before he hath pleaded, *Not Guilty*, or any other Plea, may have mitigation. Power of Justices in Sessions.

Resolu. Judges. 1633.

Action against Justices.

6. That for such Acts as are done in the Publick Sessions no Action may be brought against any of the Justices that do it. And yet if any man be grieved with such an Act, he may have it altered, or amended; or he may have help in the *King's-Bench*, upon his Appeal thither. But for such Acts, as the Justice shall do out of the Court of Sessions, the Justice will be as liable to Action as another man: And therefore it will concern him to be cautious therein.

Caution to Justices.

7. That where fewer Justices may, in, or out of Sessions, do a thing; there more Justices, in the same way and place, may do the same thing. But where the Law doth say, a thing must be done by more, it may not be done by fewer Justices, *Bulstr.* 247.

8. That where one, or more Justices may do a thing out of Sessions, there the same Justices may do in the same way and manner, the same thing in the Sessions, if the Sessions be kept within the County. And yet where a new offence is made by a Statute on a Penalty, and one, or more Justices, have power out of Sessions, to punish such an offence, wherewith the Justices, by the Common-Law, have nothing to do in Sessions; it seems they may not punish it there by the ordinary way of Indictment, &c.

9. That where a thing is to be done by the Justices, with the Assent of others; there the Justices may not do that thing alone, without the Assent of those others, *Cook's 2 Part Institut.* 704.

Mayors and Corporations.

10. That what may be done by a Justice out of a Corporation, that (for the most part) may be done by the Mayor, or other Head-Officer of the Corporation within it; as in Statute, 2. *Ed.* 6. 10. 39 *Eliz.*

Eliz. 16. the Mayor, or other Head-Officer, being a Justice, and there being a *non intermittant* to the Justices in their Charter: but otherwise, not.

Behaviour. 11 That it is not safe for a Justice, to bind a man to the *Good Behaviour*, or send him to Prison, for his refusal to be bound, upon a general Accusation or Information, that a man is a person of ill name, *&c.* without Information upon Oath. And yet if a Justice require Surety of me, in such a Case, I must give it. But if I shall be committed to Prison in this way, for refusal, I may be delivered upon my *Habeas Corpus* in the *Kings-Bench*. *Stiles Rep.* 16. And, perhaps, an Action of false Imprisonment may lye against the Justice for it. It will therefore be the wisdom of Justices, to be wary herein.

Commitment. Action against him

Caution to Justices. 12 That a Justice may not make a Deputy to take Surety of the peace of a man, and to send him to Gaol for his refusal, 9 *Ed.* 4. 13.

13 That where a Justice doth arrest a man for a Misdemeanour, *&c.* in a Case where he is to find Sureties, the Justice may not commit him to prison without demand of Sureties. For the prisoner is to tender Sureties to the Justice, 14 *H.* 7. 9.

Imprisonment of a Felon.

Place of Imprisonment. 14 That a Justice cannot detain a person suspect for Felony, more then three days, or thereabouts, whil'st he may examine him. And that he may not for this time keep him in his house, but must commit him to the Common-Gaol of the County, *&c.* 10. 1. last publish'd, 830.

Approver. 15 That where one is indicted before the Justices, and doth confess the Felony, they may not assign him a Coroner, if he become an Approver, *Cro.* 10. 77. 2 *Ed.* 4. 19.

16 That

Discharge of a Prisoner.

16 That where a Prisoner is committed by the Justices without a Writ, upon a Suggestion, or the like, there the Justices may discharge him. But where he is committed by Writ, there he must be discharged by Writ, 1 *H.* 6. 8.

Not hear and determine in one day *Oyer & Terminer.*

17 That Justices may not inquire, try and determine Criminal Matters before them all in one day, as *Commissioners* of *Oyer* and *Terminer* may do, *Cro.* 1. 316, 327. And yet it is usual for Justices of Peace so to do; *Idoneus Quare.*

New Inquest juries.

18 That the Justices may in their Sessions charge the Concealments of a former Inquest taken before them, upon a *New Inquest*, by 3 *H.* 7. 1.

Juries.

19 That the Justices, in their Sessions, may controul the Pannels returned by the Sheriff, to inquire for the King, by 3 *H.* 8. 12.

Extortion Fees of a Justice.

20 That if a Justice take more then his due Fee, for any thing he doth about his Office, this is Extortion. And he may be punished for it, as another Officer may be punished.

Pleading by a Justice.

21 That where a Justice is sued for doing of any thing in his Office, he must be sued in his own County where he dwells, and is Justice; and he may plead the general Issue to it. And if the Verdict be for the Defendant, Justice, [or the Plaintiff be Non-suit, or discontinue his Action, that the Defendant shall have double Costs against him, by 7 *Jac.* 5. See Cook 2 part of his Instit. 174.

Costs.

A Justice of peace cannot commit one, to release a Indictment against one that is suspected of Felony; he may not by this be chargeable in Action for Conspiracy. *Mich.* 7 *Jac.* 22.

Justices of Peace may not strictly their ordinary Commission, without any special Commission

other Warrant, use force to suppress Rebels that shall assemble together with intent to levie war. But to avoid the killing of any person as much as may be. *Anderson 2 part, Case 89.*

Warrant to break a house.

Justice, or Justices; one, or more Justices, cannot make a Warrant, upon a bare surmise, to break any man's house, to search for a Felon, or for stoln goods. But if the party suspected be indicted, then the Sheriff, by force of the King's Writ, may demand the Party indicted to be delivered; and this not done, may break open the house, and apprehend the Felon; *Cook. Instit. 2 Part. 177.*

To take a Felon.

Nor may a Justice of Peace make a Warrant to take a man for Felony, unless he be indicted thereof, and that must be done in open Sessions. For the Justice himself cannot arrest one for Felony, unless he himself suspect him, as another man may do; and therefore they may not make a Warrant to arrest.

And if any person be charged with any Felony, and Information given to a Justice of the suspition; if he fear the breach of the Peace, in the apprehension of him, the Justice may make a Warrant to the Constable of the Town, to see the King's Peace kept in the apprehending, and bringing of the Party, charged or suspected, before him; and the party that giveth the Information of his knowledge or of his suspition, he is to be present, and to arrest the Delinquent. And he may not break open the house to do it, but the door open, he may go in. See for all these, *Cook 2 Part* of his *Institutes*, 177.

A Justice of Peace may by word command one in his presence to take a person in his custody, and

to

to keep him safe till the next day, by him then to be examined. *Dalton, Case 151.*

One Justice may not commit another Justice of Peace for breaking of the Peace; but perhaps a Sessions of Justices may do it, *Par in parem non habet potestatem, 3 H. 7. Fitz.* Justice of Peace, 3 *Leonard.* 285.

SECT. V.

Of the Justices of Peace power to proceed against Offenders, in, or out of Sessions, upon the Statutes; And of the Exposition of the Statutes.

NUMB. 1.

Exposition of Statutes.

THE Justice of Peace, as he is to be very careful what he doth, and especially how he sends his Warrant to Arrest or imprison any man, in any case, but where he hath a clear Authority; so is he specially to be careful, where he doth it, under colour of a power given to him by an Act of *Parliament*. And that he do pursue the Order and Direction of the Statute therein, *viz.* That where he is to commit to Prison, that there he do not commit to the Stocks, or to *Bridewell*. And so on the other side. For if he do, the Commitment to that place is unlawful. And so for the Time, where the Law gives power to commit for a time, that he do not commit for a longer time; for if his power be to commit three daies, and he shall commit for four daies, or longer; this is an unlawful Imprisonment, after the three daies; yea, perhaps, unlawful for the three daies also.

2. That where a Statute is, That the Justices in then

their Assizes, or in their Sessions, shall hear, enquire, and determine of an offence; this shall be understood, in the ordinary course, by Indictment, &c. But where a Statute saith, any thing shall be examined before one or more Justices, and say not where; this may be before them by Witnesses out of Sessions. So for the *Statute* of 23 *Eliz.* 10. about *Partridges*, *Bulstr.* 2 Part, 176.

3. That where a *Statute* made for the punishment of any offence, doth, in any part, give any express power to the Justices of Peace, to do any thing in it. As 1 *Jac.* 12. *H.* 6. 12. 21 *Jac.* 29. and others. There the Justices can do no more therein, than they might have done before the making of the Act. *Cro.* 2. 643. And yet if the offence to be punished, were an offence at the *Common Law*, punishable by the Justices, as a Ryot, Perjury, or the like, they still retain that power, as before. But the Offender may not be twice punished for the same offence.

4. That where such a *Statute* gives a power to one, two, or three Justices, in a special way out of Sessions, to convict and punish offenders of that offence, that was not an offence before the making of the *Statute*; or, that if it were an offence, it was a Spiritual offence only. And the same, or some other *Statute*, doth not give any power to the Justices of Peace, to do any thing in it, to hear, or determine it, or the like. There the Justices may not intermeddle with it in their Sessions. And therefore, if in such a case, the power given to the Justices, to punish the offence out of Sessions, be defective, (as in some Cases it is) then is the offence dispunishable. And therefore it is usual in Acts of *Parliament*, to give a general power also to the

Justices,

Justices, to hear and determine the offence in such Cases, and so is 23 *Eliz.* 10. 39 *Eliz.* 4. 4 *Jac.* 5. and many others. It is therefore conceived, That the Justices of Peace may not in their Sessions receive an Indictment against a man for Swearing or Cursing, upon 21 *Jac.* 20. Or, for working done upon the Lords Day, upon 1 *Car.* 1. Nor may Justices do any thing more about a Bastard-Child, than what they have an express power to do upon the *Statutes* of 18 *Eliz.* 3. 7 *Jac.* 4. Nor may they do any more about the Laws touching *Partridges*, *Hares*, *Guns*, *Pewter*, *Brass*, *Wine*, *Vessels*, and the like, than what the *Statutes* in express terms give them power to do. But for many offences, men were indictable here by the *Common-Law* before the Justices, before the making of the Statute; and so they are indictable after the making of the Statute, as they were indictable before the making of the Statute.

4. That where a Power is given by a *Statute* to Justices of the Peace to do any thing, and it is not said where, or how the thing shall be done, there (it seems) the thing to be done (especially if it be to convict an Offender of any offence) it shall be done in the Sessions of the Peace; and therein, and by the ordinary way of Indictment, Presentment, &c. And then to make a Sessions, there must be two Justices, *quorum unus*, at the least. But where the *Statute* doth say, that the thing to be done, may be done without the Sessions, and that any Justices may do it, there, it seems, there must be two Justices to do it. If the *Statute* say that every Justice, or any Justice, or any one Justice may do it; in these Cases it may be done by any one Justice of Peace. And where it doth say

that the thing is to be done by [or before] one, two, or more Justices, there it must be done accordingly. But in some Cases, the Law perhaps may be otherwise.

5. That where a *Statute* doth say, that one or two Justices may do a thing; there it seems to be clear, that more *Justices* than one or two may do it. But where the words are, that one or two Justices shall do it, there it may be a little doubtful. And yet this seems to be the same with the former, and that the Law will be the same in both Cases.

6. That some *Statutes* are penned thus. That the Justices shall have Authority to do. Others, That they shall do. Others, That they may do. Others, That they may put the *Statute* in Execution. Others, That they may take the Conviction, and do Execution. Others, That they may punish the offences upon the *Statutes*. Others, That upon Oath taken before them, the Forfeiture to be levied by the Justices, *&c.* Others, That the thing shall be done before them. See 4 *Jac.* 5. 24 *H.* 8. 10. 21 *Jac.* 27. 5 and 6 *Ed.* 6. 4. 11 *H.* 7. 25. 4 *Ed.* 4. 1. 1 and 2 *Ph.* and *M.* 2 & 3 *Ph.* & *M.* 16. These, it seems, are all to one purpose; and probably may give power (if it be to punish an offence) to do it in the Sessions by way of Indictment, *&c.* If it be to do some other thing, it may be done by them some other way.

7. Some *Statutes* say, That a thing shall be done at the Quarter-Sessions. Others at the open Sessions. Others, at the principal Sessions. Others, at the General Sessions. Others, at the publick Sessions. Others, at the usual. Others, at the ordinary Sessions; and others at the Sessions ge-

T 2 ly.

ly. So 5 *Eliz.* 4. 2 and 3 *Ed.* 6. 25. 25 *H.* 8. 13. 2 and 3 *Ph.* and *M.* 3. 4 *Jac.* 5. 4 *H.* 7. 22. 21 *Jac.* 21. 39 *Eliz.* 17. 24 *H.* 8. 10. 1 *Jac.* 25. 3 *Jac.* 13. 5 and 6 *Ed.* 6. 4. 14 *H.* 8. 10. 19 *H.* 7. 11. And for these Cases it seems clear, that in every one of them, that which is to be done, must be done within, and may not be done without the Sessions. And in all the Cases but in the last, it seems to be intended, that the thing to be done, is to be done at a Quarter-Sessions. But in the last, and where a *Statute* saith, a thing is to be done at a Sessions, or at any Session; there perhaps it may be done at any special Sessions held for that purpose. And yet there perhaps it may be safest to do it at the Quarter-Sessions.

8. That where a *Statute*, besides the general power of *Oyer* and *Terminer*, of an offence given to the Justices, doth add this Clause, that the Justices may divide themselves, and by all means, according to their discretion, make enquiry upon the *Statute*, and the Execution thereof, and punish the Defaults; as upon 5 *Eliz.* 4. of Masters and Servants; there all the power the Justices have by these words it seems, is to keep a special Sessions, and there proceed against the Offenders in a Sessions-way only.

9. That where a *Statute*, besides the general power to Justices to hear and determine an offence, doth give a further special power to them to give such correction to the Offender as they think fit, as in 5 *Eliz.* 4. about Masters and Servants, there it is not very safe for Justices to bind to the good Behaviour, or to send to *Bridewell* upon these words; but to do that they do in this, in their Sessions.

In the Sessions. *Bridewell.*

10. The

10. That where the words of a *Statute* be, that the Justices shall cause a Distress to be taken, or cause an Offender to be imprisoned, or the like thing to be done; as it is in 24 *H.* 8. 10. there it seems to give a good Command and Authority to the Justices to do the thing; and that he may make his Warrant to an Officer, or some other to do the thing.

11. That where a *Statute* shall say, that the Justices may (or shall) do a thing; but doth not say where they may (or shall) do it; there (if it be to punish an offence) it must be within the Sessions. But if it be to make a Rate, or to do some other thing than to punish an offence, it may be done as well without as within the Sessions. So 39 *Eliz.* 4. of *Bridewell*; and 17 *Eliz.* of Mariners.

12. That some *Statutes* do give a power to Justices only to enquire of offenders and offences. Others, to enquire as well at the Suit of the King, as of the Party. Others, to charge the Juries before them to enquire. Others, that the offences shall be enquirable before them. Others, that they shall enquire by Presentment. Others, that they shall enquire, and set Fines. So 7 *H.* 6. 5. 8 *H.* 6. 9. 1 *Ed.* 6. 5. 3 *Ed.* 4. 9. 4 *Jac.* 5. 1 *H.* 8. 7. and 5 *Ph.* and *Ma.* 8. 5 *Eliz.* 13. 24 *H.* 8. 10. 3 *W.* 8. 23, 24. 15 *H.* 8. 10. In these Cases it seems they have power to hear and determine the Offence. And yet if a *Statute* give to Justices power only to enquire of an offence, and no more; some think that they have power only to take a Presentment of the offence, and then they are to send the Presentment into the *Kings-Bench*. See *Lamb.*

said, That where a Statute doth give power to Justices to hear and determine an offence, and doth not say in what way it shall be done, there it must be done in the ordinary way of Indictment.

14. That some Statutes say, as touching offences, that the Justices may [or shall] hear and determine them. Others, enquire, hear, and determine them. Others, examine, hear, and enquire. Others, hear, and determine them. Others, examine, hear, and determine them. Others, examine and determine them. Others, hear, or [in the Disjunctive] determine them. Others, determine them. And some of these have also divers Additions of other words to them. As that they may [or shall] do it by Verdict. Or, that they shall do it by Examination, or otherwise. Or, that it shall be by Witnesses, or by two lawful Witnesses, or by Confession. Or, that it shall be upon Presentment, Indictment, or Information. Or, that the Justices shall call the Parties before them, send out Process, give Judgement, punish, do Execution, and the like. So 5 and 6 Ed. 6. 4. 14. 27 Eliz. 7. 2 and 23. and 31. 3. 5 Eliz. 4. 3. 9. 23. 4 Jac. 5. 20. and 21. 27. 2 Jac. 13. 2 and 3 Ed. 6. 2. 5 Jac. 22. 37. 2 Jac. 13. 2 and 3 Ed. 6. 2. 5 Eliz. 10. 17 Ed. 4. 2. 1 Ed. 4. 12. 18 Eliz. 10. 21 Eliz. 12. 1 Eliz. 17. 23 Eliz. 8. 23 Eliz. 2. 1 Ed. 6. 1. That these (as it seems) are to one purpose, & the Justices, by every of them, have power to hear and determine the Offences within the Sessions. But additional words may also give them a power in something therein out of the Sessions.

In the Sessions.

Out of the Sessions.

15. That where a Statute is thus penned; He that shall so offend, shall forfeit such further

matter, as by the Justices shall be thought fit, not exceeding 40 l. a piece. As it is in 7 Jac. 4. And there is no way set down, to convict or punish the Offender there, if any thing be to be done, it must be done in open Sessions; and it is doubtful, what more than 40 s. Penalty may be inflicted.

2. 16. That where a Statute saith, The Conviction may be by Confession of the Party, or by Verdict, upon a Presentment or Indictment; it seems this Confession shall be understood upon an Indictment in pleading, and not before a Justice out of the Court. But where a Conviction may be, before one or two Justices, by a Confession, or proof of Witnesses, &c. out of a Sessions, there it shall be taken otherwise for a Confession, before the Justices, without Indictment. In the Sessions.

3. 17. That where a Statute gives to Justices power to examine a matter, and if he suspect to bind the Party and Witnesses to the Sessions; that, in this Case, it seems warrantable so to do. See 33 H. 8. Ca. 12. fo. 22.

4. 18. That some Statutes say, That the Justices may [or shall] punish an offence, according to their discretion; Others, Fine or Imprison, according to their discretion: Others, Fine and imprison, according to their discretion. So, 7 Jac. 4. 17 R. 2. 6. Fish. and these are conceived to be of like effects; and that they do each of them give power to the Justices, to hear and determine the Offences named in the Statutes, according to the Law, by which their discretion is to be guided. See Cov. Part of his Justic. 171. Discretion.

5. 19. That where the words of the Statute run thus: That the Justices, at their Quarter-Sessions, shall have power to indict, and try the Offender, by

the usual course of Indictment and Tryal, in like Cases; and, after such Conviction, to adjudge the Offenders to the Pillory. So, 39 Eliz. of Cognizance; there (it seems) the Justices have a power of Oyer and Terminer, of that offence, by the words; and to inflict the punishment appointed; and that they may not inflict any other punishment, than what is appointed.

20 That where the Statute is thus; That he that shall offend, shall be grievously punished; according to the discretion of the Justices; and that they shall adjudge him to the same bodily punishment, as his offence requireth, and shall do Execution thereupon. So, 23 H. 8. 9. of Labourers. There haply the Justices, upon a Tryal and Conviction, may commit him to Prison, for what time they think fit, but not punish with any greater corporal punishment.

21 That where an act of Parliament saith, That the Justices may [or shall] hear and end, an Offence by Examination, according to their discretion. Or, (as others) by Examination of Parties and Witnesses. So 32 H. 8. 13. of Horses, 11 H. 5. of Sheriffs, 19 H. 7. 11. of Deer. In these Cases, it seems, the Justices have a power of Oyer and Terminer, in the ordinary way. And, if out of Sessions, then it is doubted, if they may do it by Oath; except it be, where they might have proceeded on Oath before the Statute. And yet (it seems) they may; as upon 18 Eliz. about a Bastard: The words of which Statute are the same, in effect, with this Statute.

By Examination.

Oath.

22 That where the Statute is penned thus; Under pain of Ten Pounds; the one half to the King, the other half to him that will sue, &c.

A&

Action of Debt, &c. by Examination before the Justices of Peace, Information, or otherwise. 2 & 11 H. 7. 25. of Pheasants, &c. In this Case it seems doubtful what is to be done by the Justices of Peace.

23. That where the words are, That the Offender being convict of the offence, by Examination of Witnesses, or Confession, before the Justices of Peace, at their general Sessions, shall suffer, &c. And that two Justices, *Quorum unus*, may convent him to Sessions by Process; or, otherwise commit him to Ward, or let him to Bayl, till the next Assize, or General Sessions, there to be examined and further ordered as aforesaid. 2 & 11 H. 7. 25. These, it seems, is given to the Justices a General Power of *Oyer* and *Terminer*. And perhaps the Justices may do something without oath out of Sessions, by force of the later words.

24. That where a Statute, in one part of it, doth give power of *Oyer* and *Terminer*, to an offence; And in another part of it, is this Clause, That any two Justices, out of Sessions, may examine, hear, enquire, and determine, and administer Oaths, &c. 2 & 3 *Edw.* 6. 24. 5 *Eliz.* 23. 1 *Jac.* 27. of Pheasants, &c. In this Case, the Justices may here & determine no Offence in Sessions. And two Justices may also, by Examination of Witnesses, hear and punish it out of the Sessions.

25. That where a Statute gives power to the Justices out of Sessions, to distrain the goods of an Offender, or send him to the Prison for his Offence, but no way is set down for the Conviction of the Offender; as is, 43 *Eliz.* 2. & 3. 13 *Eliz.* 10. 5 & 6 *Ed.* 6. 25. 1 *Jac.* 9. 21 *Jac.* 7. 4 *Jac.* 5. 1 *Car.* 4. There, if there be no general words, to

...which the Act is made, must be, and if he be a Justice not within the County, [illegible] before, that there is no way to punish the Offender. And so it is, where the Statute gives a power of Conviction, but no way of Execution; as in 2 and 3 Ed. 6. about Soudiers, 1 Jac. 18. of Cloth. So where the Statute doth not appoint a way for Conviction or Execution, as 5 Eliz. 21 Jac. 28. But if there be a power of Oyer and Terminer in the Justices, then they may do it in Sessions.

26 That where a Statute doth say, The Conviction or of an Offender shall be before the Justices, by the Proof, or by the Testimony of Witnesses, but doth not say upon Oath. So 21 Jac. 28. of Cloth, 39 Eliz. 2. of Bridewell, 24 H. 8. 10. of Crows. There it is doubted by some, whether it may be by Oath out of Sessions, and yet others think it may be by Oath. But where it saith, That the Conviction may be by Oath, before one or more Justices; but doth not give them power to administer the Oath: There, it seems, the Justice, or Justices may administer the Oath, 27 Eliz. 13.

Oath.

27 That where a Statute is penned thus; That upon Proof, or Oath, or Confession of the Offender, before a Justice of peace, [without more words] such a punishment shall be inflicted, or such a thing shall be done. So 3 Car. 1. of Sweating; There it seems, the Justice may take the Conviction, and give Warrant for the Execution. And so, it seems if the Statute run thus; That unless such a Proof be made before the Justice, no punishment shall be inflicted. By this, the Justice hath power to do the thing; as it is in 27 Eliz. 13. to take the Oath of one that is robbed, Cook. Inst. 2. 689.

In all these Cases [illegible] and upon these Variecties and Ambiguities, these things are to be observed:

Exposition of Acts of Parliament.

1. That in all Cases, where there is a Power given to Justices, by any Act of Parliament, to hear, and punish Offenders, for an offence done, there must be a precise certainty, by the words of the Law, that do give the power to them, in all these following Particulars.

First, As to the Persons, and number of the Justices themselves, to whom the power is given, Whether to be done by one, or not by less than two, or not by less than three Justices. And some things cannot be done by any Justices, unless one of them be of the Quorum. And so it must, and cannot otherwise be done. And where it is to be done by two, or more, there one may not do. Where therefore a Statute appoints a Commitment for an offence, (as some Statutes do) and doth not say, who shall commit, it will be dangerous for any Justice to commit such a Case out of Sessions. And if the power be given to two, or more Justices, to do it, and one alone doth it, this is unlawful, and the Party may have his Action of false Imprisonment against him. And yet Judges of Courts, where three in Court, may do any thing by two, the difference is, in this, where things are done ministerially, and where judicially, &c. Fitz. 1 Part 77. 3 H. 4. 24.

2. There must be a certainty, as to the place wherein he is to proceed: For some Statutes say, He shall do it; but they do not say where: Some in the open, some in the Quarter, some in the Hall, some in the principal, some in the publique, some in the ordinary Sessions; some in the Sessions, and

certain.

As to the words by which the power is given. For some Statutes say, They shall have power. Others, They shall do the thing. Others, That they may do the thing. Others, That the thing may be done by, or by them. Others, Such a thing to be done by the Justices of the Peace, &c. And all these seem to be certain enough, and to give to the Justices clearly, a power to do the thing expressed.

There must be certainty, as to the Matter, and manner, and way of Conviction. And for this it hath been observed, some Statutes give the Justices power to inflict the punishment, but upon no way of Conviction of the Offender. Some Statutes set down a Penalty, and say, the Justices shall hear and end it, and do not say how; and there it must be in the ordinary way. Others say, The Conviction may be by the oath of Witnesses, or of one Witness, or by Oath only. Some, by the hearing, view, or sight of the Justice. Some, by the Confession of the Offender. Some, by Proof [or upon oath] of Witness, or Witnesses. Some, by Information. Some, by Examination: And some, by Certificate. Some, by any one. Some, by 2 or of these ways. Some Statutes give power to administer the Oaths. And some do not give him power to administer the Oath. Some say the Conviction shall be by a Verdict of twelve men. Some Statutes give to the Justices a power to hear and determine the offence. Some, to punish the Offender. Some, to put the Statutes in Execution. Others, to punish Offenders against the Law. Some give a power to commit the Offender to Gaol; some to Bridewell; some, to distrain his goods, &c. some, to convict the

Offender

Offenders, and thereupon to record or enrol Orders are, That the Justices shall convict the Offenders, and thereof make true Certificate to their next Quarter-Sessions: And it is to be observed, that the Statute of 23 Eliz. about the Kings Bench and Marshalsea, mentions the Forfeiture of ten shillings, by the Church-wardens, and twenty shillings by the Constables) it is appointed to be levyed by Distress, and sale of goods, by Warrant from the Treasurer; but it is not said, how the Offender shall be convicted. So the Fine to be set on the Treasurer for his default, is to be set by the Justices at their Quarter-Sessions; and levyed by sale of goods, but not said, how the Treasurer shall be convicted. So the twenty shillings Forfeiture to be set upon the Overseers of the Poor, for their neglect, is to be levyed by the subsequent Church-wardens, or Overseers, by Warrant from two Justices by distress and sale of goods; but the Statute doth not direct how the overseer shall be convicted of his offence. So upon the Statute of 43 Eliz. for Mariners and maimed Souldiers, it appointeth, that the forfeiture of twenty shillings, for the default of the Church-Wardens, and Petty-Constables, and forty shillings for the default of the High-Constables, be levyed by the Treasurers, by distress and sale of goods; but doth not appoint how they shall be convicted of their offences.

And yet, perhaps, in these Cases of the Kings Bench, and Marshalsea, and Mariners, and maimed Souldiers; the Treasurers, of themselves, may levy the Forfeitures, and sums of Money in arrear, without any Conviction; for the money not paid to him the offence is certain to him; and so in like Cases. But in these, and all such like Cases, the safe way is

by

Convictions.

In writing.

Warrants upon Statutes by Justices.

their Hands and Seals. Some by me to whom it shall be directed. Others, appoint it to be directed to the Constables, Tithing-men, or the Church-wardens, Salters, to the Overseers of the Poor, Owners, or two sorts of them. And note, Statutes may not to whom the Warrant shall be directed. Some Statutes appoint the Warrant to be under the Hand and Seal of the Justice, and in Writing also. And every one of these is certain enough. But the Justice must be sure to do it strictly, according to the appointment of the Statute.

Caution to Justices.

2. That where a Statute gives a power to Justices, to distrain for a Forfeiture, and for lack of distress, to imprison, &c. There if the Statute will bear it, the Justices may put all in one Warrant, thus: That the Officer for such a distress, and for lack of distress, that he shall carry the Party to Prison, or put him in the stocks, as the Case is; and to put all the work upon the Officer, to take care of it.

Warrant of Justices.

3. That where the Statute is, that in case of lack of distress, the Offender shall be committed to Prison, but it doth not say by whom. As 39 *Eliz.* 12. of Logwood, 19 *H.* 7. 11. of Deer, 4 *Jac.* 5. 21 *Jac.* 7. 8 *Car.* 1. 6. there (it seems) the Statute doth intend by the same Justice, and that he may send his Warrant to commit him.

Commitment.

4. That where the Statute gives power, for lack of distress, to inflict a corporal punishment; this lack of distress, shall be taken for lack of distress in the place where the distress may be taken, and not in another place.

Lack of Distress, how to have.

5. That

Warrant of Commitment to Prison,

5. That where a Statute gives power to a Justice to levy a Penalty by Distress, &c. And for lack of distress to send the offender to Gaol, the Justice (supposing he hath no Distress) in the like case, may not send his first Warrant to send him to Gaol, but his first Warrant must be to distrain; and then for lack of distress, by the first, or by a second Warrant, to send him to Gaol.

Conviction of an offender.

6. That where a Statute doth appoint, that a Conviction shall be by Oath of Witnesses, it is not necessary, that the Party accused be present at the time of Conviction. And yet haply it may be convenient so to be.

Out of Sessions.

7. That where an Act of Parliament gives to the Justices Power to examine a matter, and it doth not say where, nor how, in this Case (it seems) the common practice upon a Bastard Child, is, that it may be out of Sessions, and upon Oath.

Oath.

8. That where a Justice of Peace hath power to convict an Offender out of Sessions, upon View, Confession, or Oath of Witness, and he doth so, and the Offender is sent to Prison upon it; that in this Case the Justice is not bound to make a Record of it, as in case of a Ryot, or the like offence; and yet it is the safest way so to do. And, in all Cases, to set down the cause of this Commitment at large.

Record of a Warrant.

9. It will be the wisdome of Justices therefore in their Actings upon a Statute, to be wary, and strictly to pursue it. For the Justices in such a case where they have but a particular Jurisdiction must strictly pursue it. And upon this reason

hath been ordained. That if a Title be unduly laved, the warrant of the Justices of Peace for the laying of it will not excuse the Trespass. Cro. 3. 286.

We shall now descend to Particulars, and therein open all these things more at large. First, about Ecclesiastical or Spiritual Matters, and then about Civil or Secular Matters.

CHAP. II.

SECT. I.

Concerning the Church of England, *and Doctrine thereof, and Ecclesiastical Jurisdiction.*

Church, what it is.

WHere the Law speaketh of the Church of *England*, it seems thereby to intend the whole Nation, under the Profession that it maketh of the Christian Religion, the Doctrine that is holdeth forth about it, and the Discipline it enjoyneth, and useth in it.

Doctrine, what it is.

And the sum of the Doctrine of the Church of *England*, is said to be contained in the 39 Articles agreed upon 1562. which some say are confirmed by 13 *Eliz. Cap.* 12. But others say the contrary.

SECT. II.

Touching Ecclesiastical Jurisdiction.

AS to this, these things are to be known, out of the Laws and Statutes of the National

1. That

In whom it is, and how to be used and ordered.

That the Ecclesiastical Jurisdiction is united to the Crown, and in the King alone, by 1 Ed. 6. cap. 2. 1 Eliz. cap. 1. and 1 Eliz. cap. 2. 13 Eliz. cap. 12.

Prerogative.

That the King (by the Common-Law) may make Orders and Constitutions for the Government of the Clergy, and deprive them, if they do not obey him, Cro. Rep. 2. Part. 37.

3. He might (by the Common-Law) have appointed Commissioners to have done this under him. Cook 5. 9. Caudries Case. Cro. 2 Part. 37. But the Law herein is now changed.

Who may fine or imprison Ecclesiastical Officers.

4. By the Statute 16 and 17 Car. 1. cap. 11. No Ecclesiastical Judge, Officer, or Minister of Justice, may award, impose, or inflict any Pain, Penalty, Fine, or Imprisonment, Amercement, or other corporal punishment upon any person, for any Contempt, Offence, matter or thing whatsoever: And that no New Court, to exercise such like power as the High-Commission pretended to have, shall be set up; but that all such Jurisdictions, and all Acts, Sentences and Decrees made by colour thereof, shall be utterly void. What change this Law hath made in this Power, is to be enquired into. And the New Act of 13 Car. 2. is to be looked upon: For, by this Law, that Act (as to the High-Commission) is, and standeth unrepealed; but the Ecclesiastical Jurisdiction legally in, and used in 1639. in the Ecclesiastical Courts, is restored, save only in the Imposition of the Oath, Ex Officio, or any other Oath whereby the party swearing, may accuse, or charge himself in any criminal matter: for these are not restored or confirmed, but excepted; and therefore the Law in that is still in force.

High-Commission.

Oath Ex Officio.

5. That

5. That no Ecclesiastical Person may give any Oath to any Ordinary or other, to present or confess any thing, or to accuse himself of any crime whereby he may be liable to any pain or punishment, under pain of one hundred pounds penalty, and treble damages to the party grieved, 25 and 27 Car. 2. cap. 12. Oath for Ordinary.

6. He that shall do any thing against this Law, is thereby disabled to execute any Office in any Court of Justice, or any Jurisdiction, by force of Letters-Patents from the King, 25 and 27 Car. 2. cap. 12.

7. It is ordained, That the Ecclesiastical Jurisdiction used, be not repugnant to the Scriptures and Laws of God, but be to the pleasure of God, increase of vertue, and conservation of the peace and unity of the Realm, 32 H. 8. cap. 6. 25 H. 8. cap. 21. 1 Eliz. 2. Ecclesiastical Jurisdiction.

8. In 1 Eliz. by which the Ecclesiastical Jurisdiction is annexed to the Crown, and the King enabled to assign Commissioners to exercise it, and to visit, reform, redress, order, correct, and amend all such Errors, Heresies, Schisms, Abuses, Contempts and Enormities, as by any Spiritual or Ecclesiastical Power or Jurisdiction, may be lawfully used; there is this Proviso added, That none hereafter so assigned by the Kings Letters-Patents, shall have power to judge any matter or cause to be Heresie, but such as heretofore hath been adjudged and determined Heresie, by Authority of the Canonical Scripture, or the first four General Councils, or any of them, or any other General Council wherein the same was declared Heresie by the express and plain words of the Canonical Scriptures; or such as shall hereafter be judged Doctrine of the Church.

and

and determined Heretofore by the Parliament, with the Assent of the Clergy in the Convocation. Sect. 1. Car. 1. which, in part, Repealed, and 14 Car. 2. for the High-Commission.

And out of the King's Majesties Letters, and Directions to the Arch-Bishop of *Canterbury*, given the fourteenth of *October*, in the fourteenth year of His Majesties Reign, touching Ministers, it is by Majesty declared to this effect, as followeth.

First, That no Preachers in their Sermons shall presume to meddle with matters of State, to model new Governments, or take upon them to declare, limit, or bound out the Authority and Power of Soveraign Princes, or to state and determine the differences between Princes and People; but that as they have occasion, they faithfully tell the people of their Duty, of Subjection and Obedience to their Governors, Superior and Subordinate of all sorts, and to the established Laws, according to the Word of God, and the Doctrine of the Church of *England*; as it is contained in the Homilies of Obedience, and the Articles of Religion set forth by publick Authority.

Secondly, That the Ministers be admonished not to spend their time and study in the search of speculative and abstruse Notions, especially in, and about the deep points of Election and Reprobation, the incomprehensible manner of the concurrence of God's free-Grace, and Man's free-Will, and such other Controversies as depend thereupon. And that howsoever, they do not presume positively and dogmatically to determine any thing concerning the same, but to abound in the plain and

3. That

3. That they forbear in their Sermons ordinarily, and carefully to enter upon the handling of any other Controversies of less moment and difficulty. And when occasionally they be invited by their Text or Auditory to fall into them, that they do it with all modesty, gravity and candor; asserting the Doctrine and Discipline of the Church of *England*, from the Cavils and Objections of such as are Adversaries to either, without bitterness, railing, jeering, or other unnecessary or unseemly provocation.

4. That Ministers catechize the younger sort, according to the Book of Common-Prayer. And, in their ordinary Sermons, do chiefly insist upon Catechetical Doctrines (containing the necessary Truths of Christian Religion) and setting forth withal, what influence such Doctrine ought to have into their Lives and Conversations; and stirring up the people by their Life and Doctrine, to the practice of such Religious and Moral Duties, as are the proper Results of the said Doctrines; as Self-denyal, Contempt of the World, Humility, Patience, Meekness, Temperance, Justice, Mercy, Obedience, and the like; and to hate and shun sin, especially the Sins so rife and common amongst us; and especially those usually stiled the Seven Deadly Ones, and all kind of Debauchery, Sensuality, Rebellion, Prophaneſs, Atheism, and the like. And that where there is any Exercise in the Afternoon, that there it be specially spent, in explaining some part of the Church-Catechism, or some Scripture that may lead to the handling and explaining of it; or that may conduce to the Exposition of the Liturgy, and Prayers of the Church.

Lords-Day.

5. That they labour with their people, to draw them off from idle, debauched, and prophane courses, and perswade men to frequent Divine Services, Sabbath-Dayes, and other Festivals appointed to be kept solemn. And if any haunt Ale-houses and Taverns this day, or use any unlawful Sports this day, the Minister is to exhort them who are in Authority in their Parishes, to look after it, and punish it, and all those that abet, entertain, and receive them. See the Articles of Religion, *Chap.* 34. *Sect.* 2.

SECT. III.

Of Doctrines and Opinions.

AS to this, these things are to be known out of the Laws and Statutes of the Nation.

1. That it is said by some, that the Doctrine of the 39 Articles mentioned in 13 *Eliz.* is the sum of the Doctrine of the Church of *England*, and confirmed by Law.

The Penalty for maintaining of Doctrine against the Articles.

2. That if any Ecclesiastical person shall advisedly affirm or maintain any thing repugnant to any of these 39 Articles of Religion; and being convented before the Ordinary, shall persist therein, and not revoke his Opinion; or, after Revocation of it, shall return again to it, he is to be deprived of his Ecclesiastical Promotion, 13 *Eliz.* c. 12.

Subscription to the Articles and other things required of him that is admitted to a Benefice.

3. That no Parson or Vicar is to be admitted to any Benefice with Cure, except he do first subscribe to these 39 Articles before the Ordinary, and publickly read the same in the Parish-Church of the

Bene-

Beneficed with Declaration of his unfeigned Assent to the same, 13 Eliz. Chap. 12. See for this more in Chap. 2. Sect. 3.

4. That if any Minister do by Word or Writing, maintain the canon of Risk, or forbearing of Electi to be of necessity to Salvation, or Service of God, otherwise than as on 5 politick Laws be, he shall be punished as a spreader of false News, by the first of Eliz. cap. 5. Teaching Popish.

5. That the Justices of Peace, as to all these things concerning the Church of England, Jurisdiction Ecclesiastical, and Doctrines of the Church of England, and other things before-named, and the Laws before-mentioned touching the same, we find have very little or no power at all to be exercised by them within or without their Sessions of the Peace, but as to the Acts or Ordinances, so called, of May 2. 1648. and September 17. 1656. and Aug. 9. 1659. these are now of no use to us. The office of the Justices of Peace in all these things.

SECT. IV.

Of Doctrines and Opinions.

AND from the Canons of 1603. it is further to be known,

1. That Ministers are four times a year at the least, to preach up publickly the Kings Supremacy, next under God in all Causes, Civil and Ecclesiastical; and may not in their Doctrine oppose it, under pain of Excommunication, Can. 2. What Ministers are to Preach four times a year. Kings Supremacy, Can. 2.

Not deny the Church of England to be a true Church.

3. They are not to affirm that the Church of *England* is not a true and Apostolical Church, teaching and maintaining the Doctrine of the Apostles under the like pain, *Can.* 3.

Not to speak against the Form used in England in Gods Worship.

4. They are not to affirm that the Form of Gods Worship in the Book of Common-Prayer and Administration of Sacraments, established by Law, is corrupt, Superstitious, or unlawful, or containeth any thing in it repugnant to the Scriptures, under pain of Excommunication, *Can.* 4.

Not to speak against the 39 Articles.

5. They are not to affirm that any thing in the 39 Articles agreed upon 1562. is, in any part, superstitious or erroneous; or such as they may not with good Conscience subscribe unto, under the like pain, *Can.* 5.

Not to speak against the Ceremonies.

6. They are not to affirm that the Ceremonies of the Church of *England*, established by Law, are wicked, Antichristian, or Superstitious; or such as men may not with good Conscience approve, use; or, as occasion requireth, subscribe unto, under the like pain, *Can.* 6.

Not to speak against the Government by Bishops, &c.

6. They are not to affirm that the Government of this Church by Arch-Bishops, Bishops, Deans, Arch-Deacons, and the rest that bear Office in the same, is Antichristian, or repugnant to the Word of God, under the like pain, *Can.* 7.

Not to speak against the Form of making of Bishops, &c.

7. They are not to affirm that the manner of making Bishops, Priests, or Deacons, hath any thing in it repugnant to Gods Word; or, that they that are so made, are not lawfully made, nor are so to be accounted of, until they have some other Calling, under the like pain, *Can.* 8.

Not to say others that refuse the Ceremonies, may be a Church.

8. They may not affirm that such Ministers as refuse to subscribe to the Form of Gods Worship in the Church of *England*, and their Adherents,

may

may take unto them the names of another Church, not established by Law; or that they have a long time groaned under the Burthen of certain grievances imposed on them, under the pain aforesaid, *Can.* 10.

9. They may not affirm that there are other Assemblies of the Kings Subjects within the Realm (other than such as by the Laws of this Land are held and allowed to be such) who may rightly challenge to themselves the Name of true and lawful Churches, under the like pain, *Can.* 11.

10. Nor may they affirm that it is lawful for any Ministers or people to joyn together, and make Constitutions in Causes Ecclesiastical without the Kings Authority; or to submit themselves to be ruled by them, under the like pain, *Can.* 12.

Not to say other without the Kings Authority, may make Canons, *&c.*

11. Nor may they affirm that the Sacred Synod of the Nation assembled in the name of Christ, and by Authority of the King, is not the true Church of *England* by Representation; or, that none are bound by the Decrees of such a Synod, that are not present, or do not agree to them, is to be excommunicated, and not to be tehored till he revoke his Error, *Can.* 139, 140.

Synod of the Nation.

CHAP. III.

Sect. 1.

Of Bishops and Ministers, upon 1 and 2 Ed. 6. 1. 13 Eliz. 12. 14 Car. 2. How they are to be ordained and called to the Office.

How ordained.

THat all Bishops and Ministers are to be made and consecrated according to the Book of Common-Prayer now setled; and he that is otherwise made, or presest at any other making of them than according to that Book, is to be punished for the first offence with imprisonment for 6 moneths without Bail. For the second offence, for twelve moneths. For the third, during life, 3 and 4 *Ed. 6. cap. 1.* But if this Statute be in force, (as I seem it is) no man may be punished for any offence against it, but by way of Indictment, or Presentment of a Jury.

2 And no Minister that hath now any Benefice with Cure, who is not ordained by a Bishop, shall not be so ordained before the Feast of St. *Bartholomew* next, shall hold no Benefice beyond the said Feast, but shall be utterly uncapable thereof by 14 *Car.* 2.

3. Nor may any Minister hereafter be capable of any Benefice with Cure, that is not so ordained.

And by the *Canons* of 1603.

First, No Bishop may make Ministers, except four times in the year, (in the *Ember* Weeks) upon the Sundays next *Jejunia quatuor temporum*: And then in the Cathedral or Parish-Church where the Bishop dwells, and in time of Divine Service

and he is thereto be assisted by three or four Masters of Arts, Divines of his own Cathedral, or some other Church, *Can.* 36.

Secondly, A Deacon must be of the age of twenty three years, and a Priest 24 years old, and one that hath taken a Degree, and is able to give an account of his Faith in *Latine*, according to the Articles of Religion, and to confirm the same by the Scripture, *Can.* 34.

Thirdly, No man is to be called to preach and administer the Sacraments at once, but at twice, *Can.* 32.

Fourthly, Nor is any man to be called to either, till he hath some certain place to exercise his Function in.

SECT. II.

Of the Qualification of a Minister.

First, No man is to be called to the Office of a Minister, or admitted to Preach or administer Sacraments under the age of twenty four years; nor then, unless he bring a *Testimonie* from four men known to the Bishop, that he is of sound Religion, honest life, and doth profess and own the Articles of Religion agreed on in One Thousand Five Hundred Sixty two; and can give an account to the Bishop of his Faith in *Latine*, according to the same Articles; or hath a special Gift or Ability in Preaching. Nor may any be admitted to be a Deacon or Minister, unless he do first declare his unfeigned Assent unto, and subscribe the said Thirty Nine Articles, 13 *Eliz.* 12. and 14 *Car.* 2. None are to be admitted to a Benefice with Cure, that is not a Deacon, and twenty three years old,

Age of a Minister.

Subscribe, and read the Articles of Religion.

and that shall not subscribe the same Articles in the presence of the Ordinary, and publickly read them in the Church of his Benefice, and declare his Assent thereunto, 13 *Eliz.* 12.

Lecturer not to preach till Subscription.

Secondly, If any Lecturer preach or read any Sermon in any publick Church before he be approved, and Licensed by the Arch-Bishop of the Diocess, Bishop of the place, or Guardian of the Spiritualities under Seal, and before he hath read the Thirty Nine Articles, and declared his Assent thereunto before him that makes the License, he shall be imprisoned three Moneths without Bail, in the Common Gaol. And any two Justices, or the Mayor, or other chief Officer of the Peace, upon Certificate from the Ordinary of the place, to them, or him, of the offence committed, may commit him accordingly, upon the Stat. 14 *Car.* 2. And this Clause seems to extend to all Ministers that preach any where without License.

Thirdly, None may have a Benefice with Cure of thirty pounds *per annum* in the Kings Books, but a Batchellor of Divinity, or Preacher allowed by some Bishop, or one of the Universities, 13 *Eliz.* 12.

Fourthly, No Parson in any Benefice with Cure, the fourteenth of *Car.* 2. not then in Orders, and Episcopally Ordained, according to the Order prescribed, may hold his Living by the fourteenth of *Car.* 2. Nor may he be capable of any Parsonage or Vicaridge, that is not so Ordained by the fourteenth of *Car.* 2. No man is to preach; and by the Canons, expound or administer Sacraments, till he be Licensed by the Bishop of his own, or some other Diocess; or by one of the Universities, *Can.* 34, 36, 39.

Ordination by a Bishop.

Canons:

License by the Bishop.

First

First, A Deacon is to preach only, and not to administer Sacraments, &c. A Priest may do what is to do both, *Can.* 32.

Secondly, The Bishop is not to admit him without first Testimonial under the Seal of some College in one of the Universities whereof he was; or of three or four grave Ministers that know him, or from the Bishop of the Diocese where he lives, unless he were of the Bishops own Diocese, *Can.* 34.

ARTICLES OF Religion.

Of Faith in the Holy Trinity.

THere is but one living and true God, everlasting, without body, parts, or passions; of infinite power, wisdome and goodness, the Maker and Preserver of all things both visible and invisible. And in unity of this Godhead, there be three Persons, of one substance, power, and eternity; the Father, the Son, and the Holy Ghost.

2. *Of the Word, or Son of God, which was made very Man.*

The Son, which is the Word of the Father, begotten from everlasting of the Father, the very and eternal God, of one substance with the Father, took

took mans nature in the Womb of the blessed Virgin, of her substance: so that two whole and perfect Natures, that is to say, the Godhead and Manhood were joyned together in one person, never to be divided, whereof is one Christ, very God and very Man, who truly suffered, was crucified, dead and buried, to reconcile his Father to us, and to be a Sacrifice, not only for original guilt, but also for actual sins of men.

3. Of the going down of Christ into Hell.

As Christ dyed for us, and was buried: so also is it to be believed, that he went down into Hell.

4. Of the Resurrection of Christ.

Christ did truly rise again from death, and took again his body, with flesh, bones, and all things appertaining to the perfection of mans nature, wherewith he ascended into Heaven, and there sitteth, until he return to judge all men at the last day.

5. Of the Holy Ghost.

The Holy Ghost, proceeding from the Father and the Son, is of one substance, Majesty, and Glory, with the Father and the Son, very and eternal God.

6. Of

6. Of the sufficiency of the Holy Scriptures for salvation.

Holy Scripture containeth all things necessary to Salvation: so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be beleived as an Article of the Faith, or be thought requisite or necessary to Salvation. In the name of the holy Scripture, we do understand those Canonical Books of the Old and new Testament, of whose Authority was never any doubt in the Church.

7. Of the Old Testament.

The Old Testament is not contrary to the new; for both in the Old and New Testament, everlasting life is offered to Mankind by Christ, who is the only Mediator between God and Man, being both God and Man. Wherefore they are not to be heard which feign that the old Fathers did look onely for transitory promises. Although the Law given from God by *Moses*, as touching Ceremonies and Rites do not bind Christian men, nor the civill Precepts thereof ought of necessity to be received in any Common-wealth: yet notwithstanding no Christian man whatsoever, is free from the obedience of the Commandments which are called Morall.

8. Of the three Creeds.

The three Creeds, Nice-Creed, Athanasius's Creed, and that which is commonly called the Apostles Creed, ought throughly to be received and beleived

beleived; for they may be proved by most certain Warrants of Holy Scripture.

9. Of original Birth or Sin.

Original sin standeth not in the following of *Adam*, (as the *Pelagians* do vainly talk) but it is the fault and corruption of the nature of every man, that naturally is ingendred of the offspring of *Adam*, whereby man is very far gone from original righteousness, and is of his own nature inclined to evil, so that the flesh lusteth always contrary to the spirit, and therefore in every person born into this world, it deserveth Gods wrath and damnation. And this infection of Nature doth remain, yea, in them that are regenerated, whereby the lust of the flesh, called in *Greek* φρόνημα σαρκὸς, which some do expound the wisedom, some sensuality, some the affection, some the desire of the flesh, is not subject to the Law of God. And although there is no condemnation for them that believe and are baptized, yet the Apostle doth confess, that Concupiscence and Lust hath of it self the nature of sin.

10. Of Free-will.

The condition of man, after the fall of *Adam*, is such, that he cannot turn and prepare himself by his own natural strength and good works, to Faith and calling upon God: wherefore we have no power to do good works, pleasing and acceptable to God, without the grace of God by Christ preventing us, that we may have a good will, and working with us, when we have that good will.

11. Of

11. *Of the Justification of Man.*

We are accounted righteous before God onely for the merit of our Lord and Saviour Jesus Christ by Faith, and not for our own works or deservings. Wherefore that we are justified by Faith onely, is a most wholsom Doctrine, and very full of comfort, as more largely is expressed in the Homily of Justification.

12. *Of good Works.*

Albeit that good Works, which are the fruits of Faith, and follow after Justification, cannot put away our sins, and endure the severity of God's Judgment, yet are they pleasing and acceptable to God in Christ, and do spring out necessarily of a true and lively Faith, insomuch that by them a lively Faith may be as evidently known, as a Tree discerned by the fruit.

13. *Of works before Justification.*

Works done before the grace of Christ, and the inspiration of his Spirit, are not pleasant to God, forasmuch as they spring not of Faith in Jesus Christ, neither do they make men meet to receive grace, (or as the School-Authors say) deserve grace of congruity: yea, rather for that they are not done as God hath willed and commanded them to be done, we doubt not but they have the nature of sin.

14. *Of*

14. *Of works of Supererogation.*

Voluntary Works besides, over and above Gods Commandments, which they call Works of Supererogation, cannot be taught without arrogancy and impiety. For by them men do declare, that they do not only render unto God as much as they are bound to do, but that they do more for us, then of bounden duty is required: Whereas Christ saith plainly, when ye have done all that are commanded to you, say, We are unprofitable Servants.

15. *Of Christ alone without sin.*

Christ in the truth of our nature was made like unto us in all things (sin onely excepted) from which he was clearly void, both in his flesh, and in his spirit. He came to be a lamb without spot, who by sacrifice of himself once made, should take away the sins of the World: and sin (as St. John saith) was not in him. But all the rest (although baptized, and born again in Christ) yet offend in many things, and *if we say we have no sin, we deceive our selves, and the truth is not in us.*

16. *Of Sin after Baptism.*

Not every deadly sin willingly committed after Baptism is sin against the Holy Ghost, and unpardonable. Wherefore the grant of repentance is not to be denied to such as fall into sin after Baptism. After we have received the Holy Ghost, we may depart from grace given, and fall into sin, and by the grace of God (we may) arise again, and amend

amend our lives. And therefore they are to be condemned, which say, they can no more sin as long as they live here, to deny the place of forgiveness to such as truly repent.

17. Of Predestination and Election.

Predestination to life is the everlasting purpose of God, whereby (before the foundations of the world were laid) he hath constantly decreed by his Counsel, secret to us, to deliver from curse and damnation those whom he hath chosen in Christ out of Mankind, and to bring them by Christ to everlasting salvation, as vessels made to honour. Wherefore they which be indued with so excellent a benefit of God, be called according to Gods purpose by his Spirit working in due season: they through grace obey the calling: they be justified freely: they be made sons of God by adoption: they be made like the Image of his only begotten Son Jesus Christ: they walk religiously in good works, and at length by Gods mercy they attain to everlasting felicity.

As the godly consideration of Predestination and our Election in Christ is ful of sweet, pleasant and unspeakable comfort to godly persons, and such as feel in themselves the working of the Spirit of Christ mortifying the works of the flesh, and their earthly members, and drawing up their minds to high and heavenly things, as well because it doth greatly establish and confirm their faith of eternal salvation, to be enjoyed through Christ, as because it doth fervently kindle their love toward God: So for curious and carnal persons, lacking the Spirit of Christ, to have continually before

their

their eyes the sentence of Gods Predestination, is a most dangerous downfal, whereby the devil doth thrust them either into desperation, or into wretchlessnes of most unclean living, no less perillous then desperation.

Furthermore, we must receive Gods Promises in such wise as they be generally set forth to us in holy Scripture: and in our doings, that Will of God is to be followed, which we have expressly declared unto us in the Word of God.

18. *Of obtaining eternal salvation only by the Name of Christ.*

They also are to be had accursed, that presume to say that every man shall be saved by the Law or Sect which he professeth, so that he be diligent to frame his life according to that Law and the light of Nature. For holy Scripture doth set out unto us only the Name of Jesus Christ whereby men must be saved.

19. *Of the Church.*

The visible Church of Christ is a Congregation of faithful men, in the which the pure Word of God is preached, and the Sacraments be duly ministred, according to Christs Ordinance, in all those things that of necessity are requisite to the same.

As the Church of *Jerusalem*, *Alexandria*, and *Antioch* have erred: so also the Church of *Rome* hath erred, not only in their Living, and manner of Ceremonies, but also in matters of Faith.

20. Of the authority of the Church.

The Church hath power to decree Rites or Ceremonies, and authority in Controversies of faith: and yet it is not lawful for the Church to ordain any thing that is contrary to Gods Word written, neither may it so expound one place of Scripture, that it be repugnant to another. Wherefore although the Church be a witness and keeper of Holy Writ, yet as it ought not to decree any thing against the same, so besides the same ought it not to enforce any thing to be believed for necessity of salvation.

21. Of the authority of General Councils.

General Councils may not be gathered together without the commandment and will of Princes. And when they be gathered together (for asmuch as they be an assembly of men, whereof all be not governed with the Spirit and Word of God) they may erre, and sometime have erred, even in things pertaining unto God. Wherefore things ordained by them, as necessary to salvation, have neither strength nor authority, unless it may be declared, that they be taken out of holy Scripture.

22. Of Purgatory.

The Romish doctrine concerning Purgatory, Pardons, worshipping and adoration, as well of Images, as of Reliques, and also invocation of Saints, is a fond thing, vainly invented, and grounded upon no warranty of Scripture, but rather repugnant to the Word of God.

23. *Of Ministring in the Congregation.*

It is not lawful for any man to take upon him the Office of publick preaching, or ministring the Sacraments in the Congregation, before he be lawfully called, and sent to execute the same. And those we ought to judge lawfully called and sent, which be chosen and called to this work by men, who have publick Authority given unto them in the Congregation, to call and send Ministers into the Lords Vineyard.

24. *Of speaking in the Congregation in such a Tongue as the People understandeth.*

It is a thing plainly repugnant to the Word of God, and the custome of the Primitive Church to have publick Prayer in the Church, or to minister the Sacraments in a Tongue not understoode of the People.

25. *Of the Sacraments.*

Sacraments ordained of Christ, be not onely Badges or Tokens of Christian mens Profession; but rather they be certain sure Witnesses, and effectual signs of Grace, and Gods good will towards us, by the which he doth work invisibly in us, and doth not only quicken, but also strengthen and confirm our Faith in him.

There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism and the Supper of the Lord.

Those five commonly called Sacraments, that is

to say, Confirmation, Penance, Orders, Matrimony, and extream Unction, are not to be counted for Sacraments of the Gospel, being such as have grown partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures; but yet have not like nature of Sacraments, with Baptism and the Lords Supper, for that they have not any visible Sign or Ceremony ordained of God.

The Sacraments were not ordained of Christ to be gazed upon, or to be carried about, but that we should duly use them. And in such onely, as worthily receive the same, they have a wholesome effect or operation: but they that receive them unworthily, purchase to themselves damnation, as St. *Paul* saith.

26. *Of the unworthiness of Ministers, which hinder not the effect of the Sacraments.*

Although in the visible Church, the evil be ever mingled with the good, and sometime the evil have chief authority in the ministration of the Word and Sacraments; yet forasmuch as they do not the same in their own name, but in Christs, and do minister by his Commission and Authority, we may use their ministring, both in hearing the Word of God, and in the receiving of the Sacraments. Neither is the effect of Christs Ordinance taken away by their wickedness, nor the grace of Gods gifts diminished from such, as by Faith, and rightly do receive the Sacraments ministred unto them, which be effectual, because of Christs Institution and Promise, although they be ministred by evil men.

Nevertheless, it appertaineth to the Discipline of the Church, that enquiry be made of evil Ministers, and that they be accused by those that have knowledge of their offences: and finally, being found guilty, by just judgment be deposed.

27. *Of Baptism.*

Baptism is not onely a sign of profession, and mark of difference, whereby Christian men are discerned from others that be not Christened; but it is also a sign of Regeneration, or New Birth, whereby, as by an Instrument, they that receive Baptism rightly, are grafted into the Church; the Promises of the forgiveness of sin, and of our adoption to be the Sons of God by the Holy Ghost, are visibly signed and sealed; Faith is confirmed, and Grace increased, by vertue of Prayer unto God. The Baptism of young Children, is in any wise to be retained in the Church, as most agreeable with the Institution of Christ.

28. *Of the Lords Supper.*

The Supper of the Lord is not only a sign of the love that Christians ought to have among themselves one to another: but rather it is a Sacrament of our Redemption by Christ's death. Insomuch, that to such as rightly, worthily, and with Faith receive the same, the bread which we break is a partaking of the Body of Christ: and likewise, the Cup of Blessing, is a partaking of the Blood of Christ.

Transubstantiation (or the change of the sub-

ſtance of Bread and Wine in the Supper of the Lord) cannot be proved by Holy Writ: but it is repugnant to the plain words of Scripture, overthroweth the nature of a Sacrament, and hath given occaſion to many Superſtitions.

The Body of Chriſt is given, taken and eaten in the Supper onely, after an heavenly and ſpiritual manner. And the mean, whereby the Body of Chriſt is received and eaten in the Supper, is Faith.

The Sacrament of the Lords Supper was not by Chriſts Ordinance reſerved, carried about, lifted up or worſhipped.

29. *Of the Wicked which eat not the Body of Chriſt, in the uſe of the Lords Supper.*

The Wicked, and ſuch as be void of a lively Faith, although they do carnally and viſibly preſs with their teeth (as St. *Auguſtine* ſaith) the Sacrament of the Body and Blood of Chriſt: yet in no wiſe are they partakers of Chriſt, but rather to their condemnation, do eat and drink the Sign or Sacrament of ſo great a thing.

30. *Of both Kinds.*

The Cup of the Lord is not to be denied to the Lay-People. For both the parts of the Lords Sacrament, by Chriſts Ordinance and Commandment, ought to be miniſtred to all Chriſtian men alike.

31. *Of*

31. *Of the one oblation of Christ finished upon the Cross.*

The offering of Christ once made, is that perfect Redemption, Propitiation, and Satisfaction, for all the sins of the whole World, both original and actual, and there is none other satisfaction for sin, but that alone. Wherefore the Sacrifices of Masses, in the which it was commonly said, that the Priest did offer Christ for the Quick and the Dead, to have remission of pain or guilt, were blasphemous Fables, and dangerous Deceits.

32. *Of the Marriage of Priests.*

Bishops, Priests, and Deacons, are not commanded by Gods Law, either to vow the estate of single life, or to abstain from Marriage: Therefore it is lawful also for them, as for all other Christian men, to marry at their own discretion, as they shall judge the same to serve better to godliness.

33. *Of Excommunicate persons, how they are to be avoided.*

That person which by open denunciation of the Church, is rightly cut off from the unity of the Church, and excommunicated, ought to be taken of the whole multitude of the Faithful, as an Heathen and Publican, until he be openly reconciled by Penance, and received into the Church by a Judge that hath authority thereto.

34. Of the Traditions of the Church.

It is not necessary, That Traditions and Ceremonies be in all places one, or utterly like; for at all times, they have been divers, and may be changed according to the diversity of Countries, and mens manners, so that nothing be ordained against Gods Word. Whosoever, through his private judgement, willingly and purposely, doth openly break the Traditions and Ceremonies of the Church, which be not repugnant to the Word of God, and be ordained and approved by common Authority, ought to be rebuked openly, (that other may fear to do the like) as he that offendeth against the common Order of the Church, and hurteth the Authority of the Magistrate, and woundeth the Consciences of the weak Brethren. Every particular, or National Church, hath Authority to ordain, change, and abolish Ceremonies, or Rites of the Church, ordained onely by mans Authority, so that all things be done to edifying.

35. Of Homilies.

The second Book of Homilies, the several Titles whereof we have joyned under this Article, doth contain a godly and wholesom Doctrine, and necessary for these times, as doth the former Books of Homilies, which were set forth in the time of Edward the sixth; and therefore we judge them fit to be read in Churches by the Ministers diligently and distinctly, that they may be understood of the People.

The Book of Consecration of Arch-Bishops and Bishops, and ordering of Priests and Deacons, lately set forth in the name of *Edward* the sixth, and confirmed at the same time by Authority of Parliament, doth contain all things necessary to such Consecration and ordering; neither hath it any thing that of it self is Superstitious and ungodly. And therefore, whosoever are consecrated, or ordered, according to the Rites of that Book, since the second year of the afore-named King *Edward*, unto this time, or hereafter shall be consecrated, or ordered, according to the same Rites, we decree all such to be rightly, orderly, and lawfully consecrated and ordered.

37. *Of the Civil Magistrate.*

The Queen's Majesty hath the cheif power in this Realm of *England*, and other her Dominions, unto whom the cheif Government of all Estates of this Realm, whether they be Ecclesiastical, or Civil, in all Causes doth appertain, and is not, nor ought to be subject to any Foreign Jurisdiction. Where we attribute to the Queen's Majesty the chief Goverment, by which Titles we understand the minds of some slanderous Folks to be offended, we give not to our Princes the ministring either of God's Word, or the Sacraments, the which thing the Injunctions also lately set forth by *Elizabeth* our Queen, do most plainly testifie: But that onely Prerogative, which we see to have been given always

ways to all godly Princes in Holy Scriptures by God himself, that is, that they should rule all estates and Degrees, committed to their charge by God, whether they be Ecclesiastical, or Temporal, and restrain with the Civil Sword the stubborn and evil doers. The Bishop of *Rome* hath no Jurisdiction in this Realm of *England*. The Laws of the Realm may punish Christian men with death, for heinous and grievous offences. It is lawful for Christian men, at the commandment of the Magistrate, to wear Weapons, and serve in the Wars.

38. *Of Christian Mens goods, which are not common.*

The riches and goods of Christians are not common, as touching the right, title, and possession of the same, as certain Anabaptists do falsly boast. Notwithstanding every man ought of such things as he possesseth, liberally to give Alms to the Poor, according to his ability.

39. *Of a Christian man's Oath.*

As we confess, that vain and rash swearing is forbidden Christian men by our Lord Jesus Christ and *James* his Apostle: So we judge, that Christian Religion doth not prohibit, but that a man may swear when the Magistrate requireth, in a cause of Faith and Charity, so it be done according to the Prophet's teaching, in Justice, Judgment, and Truth.

SECT.

SECT. III.

Of the Duty of the Minister. And what is to be done by him that is a Minister, and that shall hereafter obtain any Spiritual promotion at his Entrance, or afterwards.

EVery Lecturer that is to be admitted unto any Lecture, or to preach as a Lecturer, is to be first approved, and licensed by the Arch-Bishop of the Province, or the Bishop of the place, Guardian of the Spiritualities under Seal. And to read the Articles of Religion, and declare his unfeigned Assent to them before the Bishop, 14 *Car.* 2. And this Clause seems to extend to all others that shall preach any where; For the words are, That no person shall be, or be received as a Lecturer, or permitted, suffered, or allowed to preach as a Lecturer, or to preach, or read any Sermon or Lecture in any Church, Chappel, *&c.* unless he be first approved, *&c.*

Ministers to read and subscribe the Articles of Religion.

2. He that is called to a Benefice with Cure of Souls, must be a *Deacon*, and 23 years of Age at least, and publickly in his Parish-Church, read the 39 Articles at Common-Prayer-time, and declare his unfeigned assent to them, and subscribe them before the Ordinary, by the 13 *Eliz.* Chap. 12. And this reading must be of the very same Book, and no other; and he must read it *verbatim*, as it is in the Book, and not otherwise. And therefore it is held unsafe for a Minister to read them out of *Reyn.*'s Exposition of these Articles, as they are there transcribed, or the like; for it hapned, that a Minister being to read the Articles, took the right

right Book with him, and laid it by him on the Desk till he had read the Common-Prayer, intending then to read it. And in the mean time, by the Patrons means, that Book was privately taken away, and another Book which was not a true Copy, foysted into the place thereof: which he took up and read. And this was adjudged no good reading within the Statute, whereupon he lost his Living, Reported by Justice *Jones*. Also his Subscription must be absolute, and not qualified, as to say, he subscribes them with this, or the like addition, *viz.* so far forth, as the same are agreeable to the Word of God; but must be absolute, or it will not be good. *Cook* 2. *Inst. Cook*, Inst. 2. pag. 324. *Dyer* 377. And if he shall not do so within two moneths after his Induction, that is, publickly read the Articles in the Parish Church, to which he is so presented in Common-Prayer-time, with Declaration of his Assent thereunto. And if also he be not licensed to administer the Sacraments within a year after his Induction at the furthest, he shall be *ipso facto*, deprived thereof, 13 *Eliz.* 12.

Sacraments.

To read the Common-Prayer.

3. He is within two moneths after his Induction to a Benefice, if he have no hindrance allowed by the Bishop, or within a moneth after the impediment removed in his own Church openly before his Congregation solemnly to read the morning and evening Prayer, according to the Book, and declare his unfeigned Assent to the use of all things in the Book prescribed, on pain to be *ipso facto* deprived of all his Spiritual Promotions, 14 *Car.* 2.

Lecturer to read Common-Prayer

4. If any Lecturer allowed and Licensed, shall not the first time he shall preach, and the first Lecture-day of every moneth afterwards, solemnly before Sermon, read Common-Prayer appointed

for the Day, and openly declare his assent unto, and approbation of the Book, and the use of all the Prayers, Rites and Ceremonies, he shall lose his Lecture, be made uncapable of it, or any other Lecture, till he conform in all points; and be imprisoned three moneths in the Common-Gaol without Bail. And any two Justices, or the Maior, or other Officer of the place, upon Certificate of the Conviction of the offence by the Ordinary before him to the Justices or Maior, or Head-Officer, may, and must send him thither. And if such Lecturer shall before he do conform, and read Common-Prayer in his Parish, as before preach elsewhere, he is to be punished for this, as for the last offence, 14 Car. 2. Justices of Peace.

5. Every Parson, Vicar, Curate, Lecturer, and other in holy Orders that is to be an Incumbent, or to have any Parsonage, Vicaridge, Curatesplace, or Lecture, at, or before his Admission into it, is to subscribe the Declaration following, viz. Subscription

'I A B, do declare, that it is not lawful upon any 'pretence whatsoever, to take Arms against the 'King; and that I do abhor that traiterous position 'of taking Arms by his Authority against his per'son, or against those that are Commissionated by 'him. And that I will conform to the Liturgie of 'the Church of *England*, as it is now by Law esta'blished. And I do declare, that I do hold that there 'lies no Obligation upon me, or on any other per'son, from the Oath commonly called the Solemn 'League and Covenant, to endeavour any change 'or alteration of Government either in Church or 'State. And that the same was in it self an unlaw'ful Oath, and imposed upon the Subjects of this 'Realm against the known Laws and Liberties of

this

this Kingdom. And this he is to subscribe before the Arch-Bishop, Bishop, or Ordinary of the Diocess, under pain of deprivation *ipso facto*, 14 *Car.* 2.

So every such person that was in any such place 1 *May*, 1662. was before St. *Bartholomew* the following, so to do, on the like pain, 14 *Car.* 2.

The like for the reading of Common-Prayer, and for the Subscription, was enjoyned to all Deans, Canons, and Prebendaries of every Cathedral and Collegiat-Church, and all Masters and other Heads and Fellows, Chaplains and Tutors of, or in any Colledge, Hall, House of Learning, or Hospital, and every publick Professor and Reader in either of the Universities, and in every Colledge elsewhere. But all these are to subscribe before the Vice-Chancellor of the University for the time being, or his Deputy.

The like Law is for every School-master that keepeth any publick or private School, or that teacheth any youth in any house, or private Family as a Tutor, or School-master. And they are to subscribe it before the Arch-Bishop, or Bishop of the Diocess, under the like pain.

6. Every Minister is to take the Oath of Supremacy, being duly tendered to him by the Arch-Bishop, or Bishop of the Diocess, or other having power from the Lord Chancellor to tender it, and to minister it; for if he refuse it, he forfeits his Spiritual promotion for his life, 1 *Eliz.* 1. And if he be such a one as does not observe the Rites of Divine Service, or deprave by Words or Writings the Rites of the Church, or use to say, or hear private Mass, the refusal upon the second tender of it to him may be Treason, 5 *Eliz.* 1.

The Parsons, Vicars, Curates, Lecturers, and School-masters, are all of them after such Subscription before the Bishop, to procure a Certificate under the Hand and Seal of the Arch-Bishop, Bishop, or Ordinary of the Diocess, who are to deliver it upon demand. And this they are openly to read with the Declaration aforesaid upon a Lords Day, within three moneths then next following, on their Parish-Churches, before the Congregation present, in time of Divine Service, in pain to lose the place *ipso facto*, and to be disabled and deprived of it. And the place to be void. But after the 25 of *March*, 1682. These words are to be omitted. And I do declare, that there lies no Obligation on me, or on any other person, from the Oath commonly called, *The Solemn League and Covenant*, to endeavour any change, or alteration of Government in Church or State; And that the same was in it self an unlawful Oath, and imposed upon the Subjects of the Realm against the known Laws and Liberties of this Kingdom. To have and to read the Bishops Certificate.

7. If any Parson or Vicar, having a Parsonage Vicaridge on which he doth reside, keeping a Curate, shall not himself (not having an Impediment to be allowed by the Ordinary) at the least once a moneth, read Common-Prayer according to the new Book of Common-Prayer; and (if occasion be) administer each of the Sacraments and other Rites of the Church in his Parish-Church, he forfeits 5*l.* to the use of the poor. Upon Conviction by Confession, or Oath of two Witnesses before two Justices of the Peace, of the place where the offence is. And for not payment in ten daies to be levied by Distress and sale of goods by warrant of the same Justices to the Church-wardens or Over- Justices of Peace.

seers

sions of the Poor of the Parish rendring the over-plus, by 14. *Car.* 2.

About Common-Prayer.

8. All Ministers are to read Morning, and Evening Prayer, out of the Book of Common Prayer newly setled every Lords Day, and Holy day, after the Feast of St. *Bartholmew* next in the year 1662. And till then, to use the former Book, and are forbidden to use any other form but what is in this Book. 14 *Car.* 2. And for this, if they do otherwise, they are indictable in some Court or other.

In the Sessions.

Not use any other Prayer-Book.

9. This Prayer and no other, must be used, and he that shall wilfully and obstinately standing in use any other in his Cathedral, or Parish Church, shall forfeit to the King for the first offence, all his Spiritual Promotions for a year; for the second offence for ever and Imprisonment for a year, for the third, all his Spiritual promotions for ever, and Imprisonment for his life; and if he have no spiritual promotions then for the first offence, imprisonment for a year; for the second offence, imprisonment for his life, by the 1 *Eliz.* cap. 12.

And by the second and third of *Edw.* the 6. Chap. 1. (if that Statute be in force, as it seems it is) he is to forfeit for the first offence, any one of his spiritual promotions which the King pleaseth to choose for a year, and imprisonment for six months without Bail; and for the second time, the loss of all his spiritual promotions, and imprisonment for a year. And for the third offence, imprisonment during life; And if he have no spiritual promotions then he is to suffer for the first offence, six months Imprisonment without Bail; for the second offence imprisonment during life: and so such of the Natives as are capable of doubling, must be doubled. And he is moreover, to be liable to Indictment

For

Fine and Imprisonment, for the not using of it, or for the using of any other form, upon 14 *Car.* 2. And if he be resident, and have a Curate, and do not himself read it once a moneth, he is liable to the 5 *l.* Penalty, by 14 *Car.* 2. And this the Justices of Peace may cause to be levied.

10. If he be present at any other form of Common-Prayer, he is to suffer for the first time, six moneths Imprisonment without Bail; for the second, 12 moneths without Bail; for the third, during life, 5 & 6 *Ed.* 6. *cap.* 1. Not to be at any other Prayer.

11. If the Minister shall deprave the Book of Common-Prayer, he is to forfeit for the first offence, the profit of his best Spiritual Living, and is to be imprisoned six moneths. For the second to be imprisoned a year, and be deprived of all his spiritual promotions. And for the third, to be imprisoned for his life. And if he have no spiritual promotion, he shall for the first offence, be imprisoned six moneths; and for the second, during his life, 2 & 3 *Ed.* 6. Chap. 1. Not to deprave the Common-Prayer-Book.

12. If he act any thing by way of Players, Rhimes, or Songs, in derogation, or depraving any thing in this Book, he forfeits as much as for not using of it. 1 *Eliz.* Chap. 2.

13. And every Minister already possest of a Benefice with cure, that shall not before *Bartholomew* day next, in the year 1662. in his own Church, before his Congregation, read the Morning and Evening Prayer, according to the new Book, and solemnly declare his unfeigned assent to the use of all things in the Book contained and prescribed in the words of the Statute, 14 *Car.* 2. shall be deprived of all his Spiritual promotions, except he have an Impediment that shall be allowed sufficient To read Common-Prayer before St. Bartholomew's day.

ent by the Bishop, and then within a moneth after the Impediment removed, under the foresaid penalty. 14 *Car.* 2.

To keep the Fifth of *November*.

14. Every Minister is bound to give notice of the fifth of *November*, and then to say Morning Prayer, and give thanks for our deliverance from the Gun-powder Treason, and to read the Act of Parliament. 3 *Jac.* Chap. 1.

To read the Statute of 5 & 6 *Ed.* 6.

15 He is once every year in his Church, when the Assembly is at the greatest, to read the Statute of 5 & 6 *Ed.* 6. *Chap.* 1. and shew the power and effect of the unanimous Prayers of God's people in their necessities.

16 He is to read the Act against Swearing and Cursing twice a year, 21 *Jac.* 20.

About the Ceremonies.

17 Every Minister is to use the Ceremony, Rite, Order, Form, and manner of Prayer, and Administration of the Sacraments, appointed by 5 and 6 *Ed.* 6. Under pain, if he refuse, and wilfully, or obstinately stand therein to forfeit the same, as also not using the Book of Common Prayer, or using another; 1 *Eliz.* *Chap.* 2.

18 And by 5 *Eliz.* *Chap.* 2. it appears, That in time, it might be a very dangerous thing, for a Minister wilfully to refuse, to observe the Orders and Rites for Divine Service, that are authorized to be used in the Church of *England*; or openly, advisedly, to deprave by Words, Writings, or any other open Fact, any of the Rites or Ceremonies used in the Church of *England*; for this, after it hath been publiquely by the Ordinary admonished to keep the same, with refusal of the Oath of Supremacy the second time upon tender thereof, may arise to a Capital offence. See the Statute, 5 *Eliz.* 2. And by the new Statute of 14 *Car.* 2. he is in his Ministration to use such Ornaments

a were used in the Church of *England* by Authority of Parliament, in the second year of *Edward* the sixth. See the Book of Common-Prayer. Nor may he use any other Ceremonies or Rites, then what are in that Book. And if he do so, he is indictable for it, 14 *Car.* 2. And the Minister that is resident, and keeps a Curate, must, as occasion is offered in his Publique Service, observe all the Rites, under the 5 *l.* pain, by 14 *Car.* 2.

About the Sacraments.

19 Every Minister is to administer the Sacraments, according to the Book of Common-Prayer, and not to use any other Form, under pain, if he do, to be under the same Forfeiture, as for not using thereof, if he refuse, and wilfully, and obstinately stand therein. See before both the Statute of 1 *Eliz. Chap.* 2. and 2 and 3 *Ed.* 6. 1. He is also to exhort the people, to prepare themselves for it, to give it every one that shall humbly and devoutly desire it, and to give it in both kinds, by the Statute of *Ed.* 6. Chap. 1.

And he may not force any man to receive it, or take it in any other form, then what is appointed; or interrupt the taking of it after that form, under pain to forfeit for the first offence 100 Marks, 1 *Ed.* 6. Chap. 1.

20 The Minister that resides on his Living and hath a Curate under him, is himself to administer both of the Sacraments (as occasion is) according to the Book of Common-Prayer, under pain of five pounds, to be levyed, as for his not reading of the Prayer every moneth, 14 *Car.* 2.

21 He that shall administer the Sacrament of the Lord's Supper, not ordained a Priest by a Bishop, forfeits 100 pounds, 14 *Car.* 2.

22 If a Minister be not admitted within a year

at the furthest of his Induction, to his Living, administer the Sacraments, he is *ipso facto*, deprived, 14 *Car.* 2.

About their Doctrine, after the 39 Articles.

23 The Doctrine of every Minister, must be according to the 39 Articles of Religion; for if having a Benefice, shall maintain any thing contrary to them, and be obstinate therein before Ordinary, and will not revoke it; or, revoking return to it again, he loseth all his Ecclesiastic Promotions thereby; and the Bishop, or Ordinary may deprive him, 13 *Eliz. Chap.* 12.

Not to deprave the Book of Common-Prayer.

24 He may not speak, or preach any thing derogation, or depraving any thing in the Book Common-Prayer; and if he so do, he forfeits much, as by the not using of it, upon 1 *Eliz.* 2.

Not say the King is a Papist.

25 If he, or any other, preach or print, that King is an Heretick, or a Papist, or that he endeavours to introduce Popery, or to stir up the people to the hatred or dislike of his person or governm if it be a Minister, he is by this made uncapable his Office: So if he Preach, or maintain, that

That the Long-Parliament is in being.

Long-Parliament is yet in being, or that the K is bound by Oath to change the Government Church or State, or that the two Houses of Parliament have a Legislative power without the King that any one is bound by any Oath, or Engagement that he hath taken, to endeavour such a thing, this he will be in a *Præmunire*, by 13 *Car.* 2. the Justices of Peace have nothing to do in t nor hath he any thing to do now about Blasphemies or Heresies, upon *May* 2. 1648. 17 *Septem* 1656. 9 *August* 1650.

Not say, the eating of Flesh is necessary.

26 If any Minister, by Word or Writing, maintain the eating of Fish, or forbearing of Flesh, be of necessity to Salvation, or the Service of G

26 other

otherwise then other politique Lawes, he may be punished as a spreader of false Newes, 1 *Eliz. Chap.* 5.

27 If such a man shall maintain and affirm by Preaching, or Teaching, That any Forein Prelate or Potentate, hath any power or Jurisdiction within the Kings Dominions; by this he will forfeit all his Goods and Chattels. And if he be not worth twenty pounds at the time of his Conviction, he shall forfeit all he hath, and suffer one years Imprisonment without Bail. The second offence is a *Pramunire*. The third Offence High-Treason. But, in this case, he must be prosecuted within six Moneths after the offence done, 1 *Eliz.* 1. And if he be a Clergy-man beneficed, upon his first Conviction, all his Spiritual Promotions are void, 1 *Eliz.* 1. Maintain the Pope's Supremacy. By the Canons.

And by the Canons, as is before shewed in *Chap.* 2.

First, The Ministers are four times a year, at the least, to preach up publiquely the Kings Supremacy.

Secondly, They are not to affirm, That the Church of *England* is not a true & Apostolical Church, nor that the Form of Gods Worship in the Book of Common-Prayer, & Administration of Sacraments, established by Law, to be corrupt, Superstitious, or unlawful; Nor that any things in the 39 Articles, agreed upon 1662, are, in any part, superstitious, or erroneous; Nor that the Ceremonies of the Church of *England*, established by Law, are wicked, Antichristian, or Superstitious, *&c.* Nor that the Government of this Church, by Arch-Bishops, Deans, Arch-Deacons, and the rest, that bear Of-

fice therein, is Antichristian, &c. Nor that the manner of making Bishops, Priests, or Deacons, hath any thing in it repugnant to the Word of God; nor that such Ministers, as refuse to subscribe to the Form of God's Worship in the Church of *England* & their adherents, may take themselves the name of another Church, &c. Nor that their other Assemblies of the King's Subjects within the Realm, other then such, as by the Laws of this Land, are held and allowed to be such, that may rightly challenge to themselves the name of true and lawful Churches: Or that it is lawful for any Ministers or People, to joyn together, and make Constitutions in Causes Ecclesiastical, without the King's Authority, &c, Nor that the Sacred Synod of the Nation, assembled in the name of Christ, and by Authority of the King, is not the true Church of *England* by Representation, See before in *Chap. 3. Sect. 3.*

SECT. IV.

Some other things the Minister is to do, or not to do.

Not to be Pluralists.

A Minister that hath a Benefice with Cure must be resident, and abide upon it; Pluralities being forbidden, except to some special Person qualified thereto, as Chaplains to great men and the like. Therefore, if any not so qualified that hath a Benefice, with Cure of Souls, of the value of eight pounds, *per annum*, or above, in the King's Book, do accept of another with Cure of Souls, and be inducted thereunto the first shall be adjudged

adjudged void, and the Patron may present, *de novo*. But for this, see the Statute 21 *H.* 8. *Chap.* 31. 26 *H.* 8. *Chap.* 19. 33. *H.* 8, *Dyer* 312. *Cook* 4. 190, 119, 78, 84.

A Minister may not take to Farm, or as a Farmer, occupy any Land, for Life, Years, or at Will, or buy any Lease for Life, Years, or at Will, in his own name, except onely a House, Garden, & such like small thing, for his Habitation, or the renting some Grounds for Provision of his house, not having enough of his own besides; nor may he buy or sell in a Trade or course of Merchandizing, any Corn, Cattle, living or dead Commodities, but so much onely, as may serve for provision of his house 21. *H.* 8. *Chap.* 12, Not to turn Farmer.

And, by the Canon-Law, 1. none may preach or expound, in his own Cure, or elsewhere, though an ordained Minister, till examined and allowed by the Bishop, *Can.* 34, 35. 49. By the Canons.

2 None may preach in any Church or Chappel, but such as shew sufficient Authority to the Minister, or Church-Warden, for his preaching, *Can.* 50. and is to enter his name, and time of preaching, *Can.* 52.

3 None may preach in private houses, or any other places, but Churches and Chappels dedicated to holy use without special License of the Bishop, *Can.* 71, 73.

4 None may hold Meetings for Sermons, or such Exercises, without Licence, under the Hand and Seal of the Bishop of the place, under pain of suspension for the first offence; Excommunication for the second, and deposition from the Ministry for the third, *Can.* 52, 72.

5 Every Minister is to visit the Sick (if not of infectious

infectious Disease) bury the Dead, and marry when desired; and all this, according to the Order set down in the Book of Common Prayer, under pain of Suspension, *Canon* 67, 68, 72.

6 He is to give notice every Sunday of the Holy-days, and Fasting-days, in the Week following according to the Order in the Book of Common Prayer, *Can.* 74.

7 He is to prepare the Children of his Parish to be confirmed, when the Bishop shall confirm them *Can.* 60, 61.

SECT. V.

The Privilidge of the Minister.

IF any one shall wilfully disturb a Preacher in his Preaching, or shall rescue him that hath been done, being apprehended therefore; any one Justice of Peace, upon complaint hereof onely, may commit him to safe keeping for six days; But then there must be two Justices, (one of them, he that committed him) that within six days must examine the matter; And if they find, either by his own Confession, or proof of two Witnesses, that he is guilty, to commit him to Prison for three Moneths, and till the next Quarter-Sessions, upon 1 *Mar. Chap.* 3. But this Statute doth not say; Whether the Proof shall be by Oath; nor gives power to the Justices to administer the Oath; and therefore it is best to let such Offenders, to be punished by the Sessions, who have execution of the Law.

And if the Town suffer such an Offender to escape, it is to be punished, 1 *Mar. Chap.* 3. But

this Statute doth not say, the Proof shall be by Oath, nor give Justices of Peace power to give the Oath and therefore it is safest to punish such Offenders in Sessions.

If by threatnings, or otherwise, any force a Minister to use any other service, or hinder him in doing service according to the Book of Common-Prayer by Law established, is an offence, for which the offender is to suffer: for the first offence 100 Marks; and, this not paid in six weeks after conviction, Imprisonment without Bail: for the second 400 Marks; and this not paid in six weeks time, 12 months Imprisonment without bail. And for the third offence, the losse of all his goods and chattels, and Imprisonment during life, by 1 *Eliz.* chap. 2. And by, 2, and 3. *Ed.* 6. if still in force, he is to suffer also for the first offence 10 li. and, that not paid in six weeks after conviction, Imprisonment three moneths without bail. For the second offence 20 li. which, if not paid in six weekes after conviction, Imprisonment six months without bail. And for the third, the loss of his goods and chattels, and imprisonment during life. As *Gelds.* Rep. 146. and *ib.* 243. Where the Justices did commit in such a case out of Sessions. But the Act of Sept. 1656. is not of use to us. Neither the Acts and Ordinances 28 *August.* 1647. 8th of Novemb. 1644. 14. *April* 1648. and *August* 1654. and 17 of *Septemb.* 1656. about the disturbance of ejected Ministers, of no use at this day.

SECT

SECT. VI.

Deanes and Chapters.

DEanes and Chapters, Heads and Fellows of Colledges and Halls, Professor; and Readers in either Universitie, are to make the same acknowledgment and Subscription touching the Covenant as Ministers under pain of losing their places. See it before, Chap. 3, Sect. 3.

Schoolemasters.

And for Schoolmasters it is thus, 1, That no Schoolmaster of a private family may teach School there without the Bishops licence under his hand and Seal, *sub pœna*, for the first offence three months Imprisonment without Bail, for the second and every after-offence 5 li. and Imprisonment for three months without Baile. 14. *Car.* 2. But in this, there is no way of Conviction set down, and therefore nothing can be done upon this Branch out of the Session.

In the Session.

2. That every Schoolmaster in publique or private, must subscribe the Declaration against the Covenant in such sort as the Ministers, and others are to doe; or to lose his place, 4 *Car.* 2. See before Sect. 3.

Upon this new Law, these things only seem to be questionable.

Observations.

1. That in cases where the Act doth say, The Minister for such and such causes, shall be *ipso facto* deprived, whether in these cases he shall be said to be deprived without a sentence of the Bishop, and notice thereof thereof given by him to them whom it may concern. Or not?

2 Whether the Curate of one that is non-Resident upon his Living, shall be said to be within the Clause that requires the Reading of the Common-

pray-

prayer once a month, or not?

3. Where power is given to the Bishop to certifie a non-conformity of any man upon any branch of this Law; whether the Bishop may doe this before he hath examined the matter, and it be found true before him. Or whether he may not make a doubt herein that if he should otherwise doe it, and it fall out to be illegall, it may be prejudice to him; Or not?

4. That where the Minister is exactly bound to all that is in the Statutes, and in the Common-prayer-Book to read all the Common prayer, and the Letany, San-dayes, Wednesdayes, and Fridays; which is that which few doe, whether by his omission herein he be not for every time *vigore juris* liable to Indictment upon the Statute; Or not. The Office of the Justice of Peace herein.

And upon all these Laws together before mentioned in this Chapter, these things are further to be observed.

1. That the Justice of Peace hath nothing to doe at all upon the Canon-Lawes.

2. That he hath not to doe now to punish Heresies and Errors upon the pretended Law of 17 *Sept.* 1656, nor 9th, *August.* 1650. for that which was formerly accounted for a Law in this, is now of no force and void. So also, for the Acts 23 *August* 1645. 26 *April* 1645.

3. Nor can he doe any thing more upon the former Laws about this, otherwise than with the rest of his fellow Justices, and this also in the Sessions of the Peace by way of Indictment Traverse and the finding of a Jury in all the Cases; and upon the new Law of 14 *Car.* 2. the Justice of Peace hath nothing at all to doe, but what he hath to doe in these following Cases. Lesture.

1. In

1. In the Case of a Lecturer. That where he shal preach or read a Sermon in any publick Church, before he be approved, and allowed by the Bishop or Guardian of Spiritualities under Seal before he hath read the 39 Articles and declared his assent thereunto before him that give his Licence: Then any two Justices or the Mayor or other Officer of the place upon a Certificate from the Ordinary of the place to them or him of the offence committed, may and must commit him to the Gaol of the County, for three months without Bail, upon 17 *Car.* 2. So, if any such Lecturer shal preach in any other place before he hath conformed, and read Common-prayer, and upon 14 *Car.* 2. declared his assent (as before) in his own parish Church, any two Justices may commit and punish him as before 14. *Car.* 2.

2. In the Case of him that keeps a Curate. That where he shall not himself once a month (not having an Impediment to be allowed by the Ordinary) read Divine Service by the new Common prayer Book, and (as occasion is) administer each Sacrament, and other Rites according to the said Book, for the 5*li.* penaltie; Any two Justices may upon the confession of the party, or proof by oath of two credible witnesses (which oath they may administer) commit the party, and require payment of the 5*li.* and in default of paiment in ten dayes, serve their Warrant to levie it by distresse and sale of goods, rendring the overplus. Upon 14. *Car.* 2.

3. In the Case of disturbance of a Minister in his Preaching, or Administration of the Sacrament. If the Constable shall bring the Offender to any Justice

Justice, he is to commit him to safe Custody; and then with another Justice, to examine the offence And if it be proved by two Witnesses, or confessed by the Offender, commit him to prison for three Moneths without Bail, and after to bind him to the next Sessions; where, if before the Justices, he shall declare his Repentance for his fault, he is to be delivered, giving of Surety for his Good Behaviour for a year. And this Repentance, if he refuse there to declare, he is to be sent back to the same Goal, and there to be till his Repentance, upon 1 *Mary*. In the Sessions.

3 And yet see 1 *Eliz.* 2. And consider, if part of this last Act be not repealed; and *Rastal's* Abridgement, 407. *Dyer*, to the same purpose.

4 It seems no man is now indictable for any thing about the first Book of Common-prayer.

5 That for any offence against 1 *Eliz.* 2. onely no man is to be called in question, after one General Sessions, next after the offence is done, be past.

6 If any Indictment be brought upon 1 *Eliz.* 2. great care must be had in the drawing thereof; for so seems, there is some mistake in the Title of this Act. See *Dyer* 203.

7 That no general power of *Oyer* and *Terminer*, being given to the Justices of Peace, by 14 *Car.* 2. that therefore they have not to do any thing upon that Statute, save onely in the Cases we have before mentioned.

And by the King's late Directions, contained in his Letter to the Arch-Bishop, it is declared,

First, To be his Will and Pleasure, That the Ministers shall read over to the People, the Canons that

that are in force once, and the 39 Articles twice, every year. See *Chap. 3. Sect. 2.*

Secondly, That the Bishops take care whom they license to preach; and that all Grants and Licenses of this kind, heretofore made by any Chancellour, Official, Commissary, or other Secular Person, be void and null, unless the Arch-Bishop, or Bishop of the Diocess, also allow it. And that all Licenses for Preaching, hereafter to be made, by any Arch-Bishop, or Bishop, be during pleasure only; otherwise to be void in all intents & purposes, as if it had never been made.

Licence of the Bishop.

CHAP. IV.

Concerning Common-Prayer, and the Book of Common-Prayer, upon 2 and 3 Ed. 6. 1. 5 and 6 Ed. 6. 1. 1 Eliz. 2. 14. Car. 2.

SECT. I.

AS to this, these things are to be known, 1 That by Common-prayer, in these acts, is to be understood (as the Acts do explain themselves) the Prayer which is for others to come unto; And the Prayer which may be heard in common Churches, or private Chappels, or Oratories.

SECT. II.

There was a very great question about the former Book of *Common-Prayer*, and of the Law about it; the which, for brevity sake, we shall not so

so much as name: for it is now determined and settled in this new Book annexed to the Act; to which all the parts of the old and new Laws are to be applyed: For it is by this New Law enacted, That this Book shall be provided in every Parish; and that this Book, and none other, shall be used; and that divers Records of the Book shall be laid up in divers publique places for men to resort unto. And it is enacted, That all Ministers in every Church, do say their Morning and Evening Prayer, and administer both the Sacraments, according to the Order and Form therein set forth. And that the Laws and Statutes formerly made, and now in force, for the Uniformity of Prayer, and Administration of the Sacraments, shall stand in ful force and strength, to all intents and purposes, for the establishing and confirming of the said Book, entituled, *&c.* and shall be applyed, practised, and put in use, for the punishing of all Offences, contrary to the said Laws, with Relation to the Book aforesaid, and to none other.

This onely then is to be enquired into; what Acts, formerly made, were in force at this time, about this matter; and what Acts may be said Acts for uniformity of Prayer, and Administration of the Sacraments.

And for this it seems the Statutes of 2 and 3 *Ed.* 6. *Chap.* 1. 5 and 6 *Ed.* 6. *Chap.* 1. and 1 *Eliz. Chap.* 2. are to be admitted, without question, to be such; for, their Titles are to this purpose, Uniformity and Administration of Sacraments. But for the further opening hereof, take these Particulars,

1 That the Offences about this, are either in the

the Minister, in not using, or using some other Prayer, or speaking against it and the like; For which, see before, *Chap.* 3. That every Minister, having a Curate, is himself to read it once a Moneth. And every Lecturer, at his first Sunday of every Moneth after to read it. Every Minister within two Moneths after he is inducted to his Living is openly, in his Church, to read Morning and Evening-Prayer, according to the Common-Prayer Book, and declare his unfeigned Assent to it, &c.

2 Or, in the People; and so they will offend in these things.

SECT. III.

First, If any one by open Fact, Deed, or Threat compel, procure, or maintain any Minister, in any Cathedral or Parochial Church, to say Common Prayer, or minister the Sacraments, in any other manner or form, then what is set down in the Book, or shall hinder him in doing service, according to this Book, shall for each of these offences forfeit one hundred marks, for the first offence; and for not payment within six weeks, six moneths Imprisonment without Bayl; for the second offence, four hundred marks; and, if not paid in six Weeks, twelve Moneths Imprisonment without Bayl, for the third offence, all his Goods, and Chattels, and Imprisonment during life, 1 *Eliz. Chap.* 2. And by 2 and 3 *Ed.* 6. for the first offence, ten pounds; and, if not paid, Imprisonment for three moneths without Bayl: for the second offence, twenty pounds; and that not paid, six moneth Imprison-

men

ment for life. And by the 3 *Ed.* 6. and 1 *Eliz.* It is provided, That the Justices of *Oyer* and *Terminer*, and *Assize*, may, at the next General Sessions, after any of these aforenamed offences, against either of these Statutes committed, hear and determine them. And the Bishop of the Diocess may joyn with them herein, if he please. Also, that the Mayor and Chief Officers, of Cities and Corporate Towns, may hear and determine them. But the Justices of *Oyer* and *Terminer*, and *Assize*, must do it at the next General Sessions, after the offence committed, and not afterwards. And the Mayor and Officers, of Cities and Towns Corporate, must do it within 15 dayes after *Easter*, and the Feast of St. *Michael*, yearly. And the Indictments upon these Statutes must be framed, and laid accordingly. The Judges also of the *Kings-Bench*, Justices of *Assize*, and *Gaol-Delivery*, may hear and determine any offence upon 1 *Eliz. Chap.* 2. And any offence within that Statute, but Treason, and Misprison of Treason, the Justices of Peace may hear and determine. But it is also provided, That whosoever is punished for any of the offences, in either of these Statutes, that he be first thereof convicted by Verdict of 12 men, by his own Confession, or the notorious Evidence of the Fact. It is also provided, That the Ecclesiastical Officer shall punish any of the offences, by Admonition, Sequestration, Excommunication, Deprivation, with other Censures and Process, as he hath formerly done; but that no man be punished twice for one and the same fault.

Justices.

Mayor.

In the Sessions.

2 If any shall be present at any other Form of Common-Prayer, Administration of Sacraments, or making Bishops, or any other Rites than such as

In the Sessions.

are contained in this Book; he is to suffer for the first offence six monthes Imprisonment without Bayl; for the second, a year; for the third, during life. And by this Statute, the Justices of Assize, *Oyer* and *Terminer*, and Justices of Peace in their Sessions, may hear and determine it: But they cannot convict, or punish the Offender otherwise than by the Verdict of twelve men, or his own Confession, upon Indictment, in the ordinary course of Tryal, in the Publique Sessions; Statute 5 & 6 *Ed. 6. Chap.* 1.

In the Sessions. 3 If any one shall openly speak, or declare against this Book, or deprave it, he shall be punished in the same manner and measure, as he that compels or forceth the Minister to say Prayer, or administer the Sacraments in another manner, than is appointed by the Book, or that shall interrupt the Minister, in his doing it according to the Book; 1 *Eliz. Chap.* 2. and 3 *Ed. 6. Chap.* 1. as it before.

In the Sessions. 4 No man may absent himself from Common Prayer, on the fifth of *November*; but no Penalty appointed: therefore he must be punished in the ordinary way of Tryal, by Jury, &c. and the Justices are to impose a reasonable Fine, 3 Car. *Chap.* 4.

In the Sessions. 5 If any speak, or act any thing, by way of Plays, Rythms, or Songs, in derogation of any thing in this Book, he is to be punished in the same measure and manner, as he that compels, or forces a Minister to do it in another manner; or shall interrupt him in doing it, after the Form prescribed in the Book, 1 *Eliz. Chap.* 2. and 2 and 3 *Ed. 6. Chap.* 1.

SEC

SECT. IV.

From all which, it is to be observed;

1 That there is nothing for the Justice of Peace to do, or that he can do, out of the Publique Sessions.

2 That no Indictment can be now, for any Offence committed, about the former Book of Common-Prayer.

3 That for any offence against 1 *Eliz. Chap.* 2. namely, no man is to be questioned, after one General Sessions, next after the offence done, is past.

4 If any Indictment be brought upon 1 *Eliz. Chap.* 2. great care must be had in the drawing thereof; for, it seems, there is some mistake in the Title of this Act. See *Dyer* 203.

5 That these Laws are to have an Exposition, and are not to be taken literally; for, if so, then every Publique Prayer made by a Minister, before, or after Sermon, seems to be against them, and all that are present thereat, seem lyable to all the great Penalties of the Statutes for the same. The Office of the Justice of Peace herein.

6 Where no Book is provided by the Parish, it seems the Minister and People are excused, and cannot be punished, for not coming to, and not using it.

7 And two Justices near the place, or the Mayor, or chief Officer of the place, where an incumbent Parson, or Vicar, is resident, and hath a Curate, that shall not himself read the Common-Prayer once a moneth, not having an impediment, to be allowed by the Bishop or Ordinary, may, upon the Confession of the Offence, or upon Out of Sessions.

Proof thereof, by the Oath of two Witnesses, sen
his Warrant to the Church-Wardens, or Ove
seers, to levy the five pounds Forfeiture (if
paid in ten dayes after Conviction) by 14 C
2.

Out of the Sessions.

8 That any two Justices, or the Mayor, or ch
Officer of the place, where any Minister, or Lec
rer, shall preach, or read any Sermon, in any pu
lique Church, before he be Licensed by the Ar
bishop, Bishop of the place, or Guardian of t
Spiritualties, under Seal; and before he hath re
the 39 Articles before him, and declare his a
thereunto; or where he shall not the first Lec
day, and the first Lecture-day of every mo
afterwards before Sermon, solemnly read
Common-Prayer appointed for the Day, and o
ly declare his assent to it, as before any two
stices, Mayor, or Head-Officer, upon the Ord
ry's Certificate, of the Conviction of the Off
before him, may send him to Gaol, for
Moneths, without Bayl. But otherwise, no
the Cases mentioned in this Chapter, may (to
Case) upon any of these Statutes be punished,
any of the Offences therein mentioned, by
Justices of Peace but of their Sessions; bu
their publique Sessions: And there only by
sentment or Indictment; and a Travetse, or
fession; and the Verdict of a Jury of 12 men,
not otherwise. The Justices of *Oyer* and *Te*
ner, or of Assize, may hear and determine th
fences, upon 1 *Eliz.* 2. and 23 *Eliz.* And so
Justices of Peace also; but this must be in
publick Sessions. *Camb. Just. Peace* 12.

Caution to Justices.

These Statutes then being some of them
cate and long, and the Penalties very great, it

be the wisdom of Justices of Peace, that act upon them, to do it with good advice.

See the *Common-Prayer Book* it self.

CHAP. V.

Of the Sacraments upon 1 Ed. 6. cap. 1. 5. and 9 Ed. 6. cap. 1. 1 Eliz. cap. 2. 3 Jac. cap. 4. and 14 Car. 2.

SECT. I.

How they are to be used.

AS for this: these things are to be known out of the Laws of the Nation,

Offences.

1. That the offences about it, are either in Ministers, or People, or in both. And the punishments for the same as followeth.

By the Minister.

In the Ministers. (1) If he doth not the day before he entendeth to administer the Lords Supper, give notice thereof to, and exhort the people to prepare themselves for the same.

In the Sessions.

(2) If he shall not give it to every one, that shall humbly and devoutly desire it, upon 1 *Ed. 6. cap.* 1.

(3) If he shall not then give it to him in both kinds, upon 1 *Ed. 6. cap.* 1. For these three offences, there is no certain punishment appointed.

He must administer them in the form prescribed, under the penalty set down.

In the Sessions.

(4) If he doth not, when he doth administer the Sacraments, do it after the Form set down in the new Book of Common-Prayer, or doth it otherwise, he is for the first offence, to lose all his Spiritual promotions (if he hath any) for a year, and to be imprisoned six moneths without Bail. For

the second offence, to lose all his Spiritual
motions for ever, and be imprisoned 12 mon
For the third offence, to lose all his Spir
Promotions for ever, and be imprisoned during
And if he hath no Spiritual promotion, he is for
first offence, to suffer a years imprisonment.
for the second offence, to be imprisoned dur
life, by 1 *Eliz. cap.* 2. See *cap.* 6. *Sect.* 3. 14 C
2.

(5) If the Minister be not admitted to ad
nister the Sacraments within a year, at furthest,
ter his Induction into his Living, he is *ipso*
deprived, by 12 *Eliz.* 13.

(6) If one administer the Sacrament of
Lords Supper, before he is ordained a Priest
Episcopal Ordination, he forfeits 100 marks
14 *Car.* 2.

(7) If the Minister (that hath a Curate, a
himself resident on the place) do not himself
minister each of the Sacraments, (as occasion
be) according to the Book of Common-Praye
forfeits 5 *li.* See for this, *Chap.* 2. 14 *Car.* 2.

By the People.
The penalty to be present at any other Form of Administration, then what is appointed.
In the Sessions.

2. In the People the offence is this. (1)
be present at any other form of Administrati
Sacraments, then what is appointed by the
of Common-Prayer of 5 and 6 *Ed.* 6. *ca*
He is for the first offence, to be imprisone
moneths without Bail. For the second offen
year. For the third, during life, 5 & 6 *E*
Cap. 1. But Quære, if this last clause be not
by the last clause of 1 *Eliz.* 1. It seems not,
so to be resolved.

Recusans.

2. That a Popish conforming Recusant is to
ceive the Communion once a year at the le
his own, or in some other Parish, under a
pen

penalty, by 3 *Jac.* 4. or to be indicted before the Justices of Peace in their Sessions.

3. In the Minister or People: the offenders are,

(1) To force any man to administer, or take it otherwise, then according to the Form in the Book. Or to interrupt him in the receiving of it after that Form. For this, he shall forfeit for the first offence 100 marks, as for forcing a man to any other Prayer, or interrupting him in this Form, upon 1 *Eliz. cap.* 2. See it in *Chap.* 6. *Sect.* 3.

By Ministers or People. To force any one to do it, otherwise then is appointed, or to interrupt him in so doing. In the Sessions.

(2) To deprave, despise, or contemn the Sacrament of the Lords Supper, by word or deed. For this (if he be questioned within three moneths) the Offender is to be imprisoned, and make Fine and Ransom at the Kings Will and Pleasure, by 1 *Ed.* 6. *cap.* 1.

The penalty of depraving, or despising of the Lords Supper. In the Sessions.

(3) Every man is to receive the Lords Supper three times a year, by the Book of Common-Prayer, and 14 *Car.* 2. Otherwise he may be indicted upon Fine in some Court or other; but not before the Justice of Peace. And any man may be punished for any of these offences about the Sacrament, by the Justices of Peace in their Sessions, upon 3 *Jac.* 4. but the punishment of these offences, must be in the ordinary way of Indictment, or presentment of the offender and his Traverse to, or confession of, the offence which must be in open Sessions. And if an Indictment be brought upon 1 *Eliz.* cap. 2. great care must be had therein, for it is said, the Title of the Act in the printed Book, is mistaken. See *Dyer* 203.

Who may punish for these offences, where, and how. The Office of the Justice of Peace herein.

Controul to Justices of the Peace.

4. That no Person is to be punished for any offence upon 1 *Eliz.* 2. unless he be thereof indicted at the next general Sessions after the offence done before the Justices of *Oyer* or *Terminer*, or

Out of Sessions.

of Assize. And yet three Justices *Quorum* may take information upon Oath of two per against the offender, and bayl him, and bind Accuser and Witness in 5 *li.* a piece, to give e dence against the offender at the next Sessi And three Justices may send out a Writ to Bishop in the Kings name, and a *Capias* exige and *Capias utlagatum*, against an offender u these Statutes. But this, and all the rest, that t have to do upon them, is to be done within, not without, their Sessions.

The Sacraments.

And as to the Canons of 1603, these th are further to be known.

SECT. II.

Ministers not to deny the Sacraments to any.

1. THat Ministers may not refuse, or dela Christen any Child that is brought to Church to them upon Sundayes or Holy-d to be Christened, having notice thereof before the morning before it is to be baptized, under of suspension from their Ministery for t moneths, *Can.* 68. See the Book of Comm Prayer.

2. If they be told of a Child not baptized danger of death, and be desired to come to tize it; if they refuse, or delay to do it, and Child die unbaptized, they may be suspended three moneths, *Can.* 69.

How oft it is to be administred every year.

3. The Sacrament of the Lords Supper, i be administred so often every year, that every

may receive it thrice, whereof once at *Easter*, Students in Colledges four times a year, *Can.* 20. 21, 23. And before it is done, the Minister is to give notice to the Church-wardens and people, to prepare, and to be prepared for it, *Can.* 20. 21.

Preparation must be made for it.

4. They are not willingly to give it to any, but to such as kneel, nor to any that refuse to be present at publick prayers, according to the order of the Church; nor to any that are common and notorious depravers of the Book of Common-Prayer, or of any thing contained therein, or of the Articles of Religion, or in the Book of ordering Priests and Bishops, or to any that have spoken against the Kings Supremacy, under pain of Suspension, unless the party acknowledge his fault to the Minister before the Church-wardens, and promise to do so no more, *Can.* 27. 28.

They must give it to none that refuse to be present at Common-Prayer, nor to those that do pervert the Book of Common-Prayer, or Articles of Religion, or the Book of ordering and making Bishops, &c.

5. When they give it to others, they must take it themselves, *Can.* 20. 21.

6. They may not administer it in private houses, but where one is sick, and desireth it. Under pain of Suspension for the first, and excommunication for the second offence, *Can.* 71.

They may not administer it in private houses.

7. They may not give it to them that live scandalous, or in malice, till Repentance, and Reconciliation, *Can.* 26.

Nor give it to the scandalous.

8. Nor to strangers of other Parishes, if they know them to come often, *Can.* 27. 28.

Nor to strangers of other Parishes.

9. They may not use any Bread or Wine, newly brought, before the words of Institution shall be rehearsed, when the Bread and Wine is present on the Table, *Can.* 20. 21.

Not to use the Elements till Consecration.

10. That no Parent is to be urged to be present, nor be admitted to answer as Godfather to his own Child: nor shall any Godfather, or Godmother, make

Godfathers and Godmothers to Children baptized.

make any other answer, or speech, then by the Book of Common-Prayer is prescribed in that behalf: nor shall any be admitted to be a Godfather or Godmother, before he or she have received the Communion, *Can.* 29.

The Minister in service time may not absent himself from the Communion, nor from preaching at his Church.

11. That every Minister that hath a Benefice with Cure of Souls, and hath a Curate under him, or is a Lecturer, shall in his own Church, twice at least, every year, administer the Sacraments of Baptisme (if there be any to be baptized) and of the Lords Supper, with the Observation of all the Rites set forth in the Book of Common-Prayer, under pain of Suspension, *Can.* 56.

Sacraments may not be refused by non-preaching Ministers.

12. The Sacraments either of them, may not be refused from the hands of un-preaching Ministers: Nor may any man leave the Minister of his place, to go to another Parish or Minister for that cause, under pain of Suspension, and, in case of obstinacy, of Excommunication. And the Minister of another Church that shall receive such a one, and administer either of the Sacraments to him, is to be suspended for this, *Can.* 57.

Such as receive not the Communion at Easter.

13. Such as are above sixteen years old, and do not receive the Communion at *Easter*, are to be punished by Ecclesiastical Censure, *Can.* 113.

CHAP.

CHAP. VI.

For coming to Church, upon the Statutes of 5 and 6 Ed. 6. cap. 1. 1 Eliz. cap. 2. 23 Eliz. cap. 6. 29 Eliz. cap. 6. and 3 Jac. cap. 4.

FOr the understanding of this, these things are to be known. Sect. 1. The penalty for not coming to Church every Sunday and Holy-day.

1. That by 5 and 6 *Ed. 6. cap. 1.* it is provided, That every one shall diligently and faithfully (having no reasonable, or lawful excuse, to be absent, endeavour himself to resort to his own Parish Church or Chappel accustomed, or, upon reasonable let thereof, to some usual place, where Common-Prayer, and such Service of God shall be used in such time of let, upon every Sunday, and other dayes ordained and used to be kept as Holy-dayes, and then and there to abide orderly and soberly, during the time of the Common-Prayers, Preachings, and other Services of God, there to be used and ministred, under pain of the Censures of the Church.

That in 1 *Mar.* chap. 2. this Statute by name was (amongst other Statutes) repealed, and never since revived. But that Statute of Repeal of 1 *Mar.* was since by 1 *Eliz.* cap. 2. and 1 *Jac.* cap. 25. Repealed, the which, it seems, is a Reviver of the fifth Statute.

2. That in 1 *Eliz.* cap. 2. it is provided in the same words, as before in 5 and 6 *Ed. 6.* That every one shall come to Church upon every such day, under pain of Church-Censures, with this addition thereunto. [And also upon pain to forfeit 12 d.

to

to be levied by the Church-wardens to the use of the Parish, where the offence is done upon the Lands and Tenements of the offender by way of distress.]

The penalty for not going to Church for a moneth together.

3. That in 23 *Eliz.* cap. 1. it is provided in these words, That every person above 16 years old, which shall not repair to some Church, Chappel, or place of Common-Prayer, but forbear the same, contrary to the Tenour of a Statute made in the first year of her Majesties Reign, for Uniformity of Common-Prayer, And being thereof lawfully convicted, shall forfeit to the Queens Majesty, for every moneth after the end of the Session of Parliament, which he, or she, shall so forbear, twenty pounds of lawful English money. And that, over and besides the said Forfeiture, every person so forbearing by the space of one moneth, as aforesaid, shall for his, or her obstinacy, after Certificate made in writing, into the Court commonly called the Kings Bench, by the ordinary of the Diocess, a Justice of Assize and Gaol-delivery, or a Justice of Peace of the County, where such offender shall dwell or be, be bound with two sufficient Sureties in the sum of 200 *li.* at the least, to the good behaviour; and to continue bound untill such time as the person so bound, do conform himself, and come to the Church, according to the true meaning of the Statute, made in the first year of the Queens Majestie's Reign. But this 20 *li.* a moneth, the King if he please, may relinquish, and instead thereof, take two parts in three, of all his Land and Leases. And if he cannot pay the 20 *li.* he is to be committed to prison till he do pay it. But if this be the first offence, the offender may before

The penalty for not going to Church is a year together.

In the 35 Eliz.

Judg-

Judgment had againſt him, ſubmit and conform before the Biſhop of the Diocels, or Juſtices of the Peace in their open Seſſions where he is indicted, and ſo be diſcharged of all the offences but Treaſon, and miſpriſion of Treaſon, within 23 *Eliz.* cap. 1. 29 *Eliz.* cap. 6. 3 *Jac.* cap. 4.

4. That by 3 *Jac.* chap. 4. It is provided, That he that ſhall keep in his houſe a Servant, Sojourner, Stranger, or School-maſter, that ſhall refuſe to come to Church for a moneth together, or a School-maſter not allowed by the Biſhop, forfeits 10 *li.* And the School-maſter is diſabled to teach for ever afterwards, and is to be impriſoned a year without Bail, upon 23 *Eliz.* 1. And ſuch as have Divine Service in their houſes, and are commonly preſent at it, and are at leaſt four times a year at the Divine Service in the Pariſh-Church, or ſome other open Chappel of Eaſe, are not to incur any of the penalties upon 23 *Eliz.* 1.

The penalty of keeping ſuch in his houſe, that will not go to Church.

5. That by this Statute of 3 *Jac.* cap. 4. it is further provided, That if any one reſort not every Sunday, to ſome uſual place of Common-Prayer, and there hear Divine-Service, according to the Statute made 1 *Eliz.* He may within a moneth after the offence done, if he cannot make ſome good excuſe for his abſence, be convicted before any one Juſtice of Peace, upon his own confeſſion, or the Oath of one witneſs, and by warrant from this Juſtice to the Church-wardens of the place, they may levy the money to the uſe of the poor of the place. But he that hath been puniſhed upon 1 *Eliz.* is not again to be puniſhed upon this Statute of 3 *Jac.* And he that is for his offence puniſhed again by the Eccleſiaſtical Officer, is not puniſhed again by the Civil Officer. *Et ſic e converſo.*

In the Seſſions. Not to go to Church every Holy-day. The Forfeiture. Out of Seſſions.

6. That

Recusants.

6. That it is further provided by the said Act of 3 *Jac.* cap. 4. (the Title, Preamble, and Body whereof, is all about Popish Recusants, save only in the Branch last before named) That such of them as did, or should conform, and come to Church, should also receive the Communion at least once a year in their own Parishes. And that the Churchwardens and Constables of every Parish, should once a year at least, present the monethly absences of them from Church: and some other things there are concerning them therein.

Communion.

Churchwardens, Constables.

Sect. 3. The penalty of refusing to go to Church, and perswading against the Kings Supremacy.

7. That it was provided by 35 *Eliz.* cap. 1. That if any one doth obstinately refuse for a moneth together, to go to Church, and shall perswade others against the Kings Authority, in Causes Ecclesiastical; Or to that end, shall perswade others not to go to Church, or not to receive the Sacrament according to the Laws; or to come to, or be present at unlawful Conventicles, under colour of exercise of Religion against the Laws and Statutes. For this, he is to be committed to prison without Bail, till he conform, and make an open submission, as is set down in the same Statute. And so also by the same Statute of 35 *Eliz.* That if one keep, or relieve any Friend (if it be not a Father, or Child, or some such near Relation, that hath no other place of Residence) that shall refuse for a moneth together to go to Church, after he is warned by the Bishop, Justice of Assize, Goal-delivery, or a Justice of Peace of the place, to put him away, he will forfeit 10 *li.* for every moneth he shall keep him. But it is conceived, that this Act of 35 *Eliz.* cap. 1. hath as much of doubt in it. For which, see *Chap. 6. Sect.* 4.

In the Sessions.

8. If

8. It is provided by the Acts of 1 *Eliz.* cap. 1. 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1. That the Judges of the Kings Bench, Justices of Assize, and Goal-delivery, may, in the ordinary way of Indictment or presentment, hear and determine any of the offences about Recusants their not going to Church, not receiving of the Sacrament, upon the said Acts of 3 *Jac.* cap. 4. and 23 *Eliz.* cap. 1. And these Justices also, and the Justices of *Oyer* and *Terminer*, may hear and determine any offence upon 1 *Eliz.* cap. 1. And the Justices of the Peace at their Sessions, may also, at least within a year and a day after the offence done, hear and determine any of the offences but Treason, and misprision of Treason, upon 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1. And any of these Justices of the Kings Bench, and Goal-delivery, or of the Peace where an Indictment is before them for Recusancy, may make proclamation, and the party yield himself to the Sheriff. And if then he appear not at the next Assizes or Sessions, he is convict of the offence, by 3 *Jac.* cap. 4.

How these offences may be punished, and by whom.

Proclamation to be made against a Recusant.

9. That by 3 *Jac.* cap. 4. No Indictment for not coming to Church, is to be made void, or discharged, for lack of Form, or other matter, untill the party conform and come to Church, by 3 *Jac.* cap. 4.

No Indictment to be removed for lack of Form, till the party conform.

10. By all these things, it appeareth, the offences about this matter of not coming to Church, and the punishments of them are as followeth:

The offences and punishments.

1. Not to resort to, but to absent a mans self from his own, or (upon reasonable cause) some other Parish-Church or Chappel, where Common-Prayer is used, to hear the same on every Sunday and Holy-day, and then, and there to abide soberly

Not going to Church every Holy-day.

ly and orderly, during the time thereof; For the the offender is to be punished by the Censures the Church, and to pay 12 *d.* a time for his defa upon 1 *Eliz.* cap. 2. 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1.

Not to go to Church in a Month together.

2. To forbear after 16 years of age, to co to Church for a moneth together, not having g cause for it; For this, the offender doth for 20 *li.* a moneth to the King, besides the 12 *d.* day. By 23 *Eliz.* cap. 1. which the King refuse, and take the Thirds of all his Lands Leases. And if he have not to pay the 20 *li.* must be imprisoned, upon 23 *Eliz.* cap. 1. 29 *E* cap. 6. 3 *Jac.* cap. 4.

3. To forbear after 16 years of age, to come Church for a year together: For this, the of der is to be bound to the good Behaviour, till conform, and come to Church, upon 1 *Eliz.* 2. 23 *Eliz.* cap. 1.

4. To keep one in his house, a Servant, Soj ner, Stranger, or Schoolmaster, that shall refu go to Church a moneth together; for this, he forfeits 10 *li.* upon 3 *Jac.* cap. 4.

5. To refuse obstinately for a moneth to go Church, and to perswade others not to go Church, or to go to Conventicles, or against King's Authority, in Ecclesiastical matters. this, he is to be imprisoned without Bail, till submit and conform upon 35 *Eliz.* cap. 1. A to keep, or relieve a Friend (if it be not a v near Relation) that hath no place of Reside after he is warned by the Bishop, Justice of Ass Goal-delivery of the Peace, to put him away,

shall refuse for a moneth together to go to Church. For which, he shall forfeit 10 l. a moneth, for so long as he shall keep him, upon 23 *Eliz.* 23. But of this Statute-Law (as we have said) there is by the Justices of Peace, some question to be made. See it before, *Sect.* 3.

Sect. 4. The Case.

This then being the Abridgment of all the Statutes, as to this matter, the Case upon them will be this; That by the Statute of 5 and 6 *Ed.* 6. Every one is required to resort to Church, and abide there orderly every Sunday and Holy-day, under pain of Church-Censure. This Statute was 1 *Mar.* cap. 1. repealed. This Statute of Repeal, was by 1 *Eliz.* cap. 1. and 1 *Jac.* cap. 25. repealed. But the Act of 5 and 6 *Ed.* 6. never revived. That 1 *Eliz.* cap. 1. it was then again enacted, That every one should go to Church, and there abide orderly every Sunday and Holy-day, under pain of 12 d. for every default, That in 13 *Eliz.* chap. 1. it is provided, That he that is 16 years old, and shall absent himself from Church a moneth together, contrary to the Tenour of 1 *Eliz.* he shall forfeit 20 l. for every moneth he shall so forbear. And that if he forbear 12 moneths together, after a Certificate made hereof into the Kings Bench, he may be bound to the good Behaviour, till he conform, and come to Church. But the Act doth not express how the offender shall be convicted, or whether a Certificate may be made by the Bishop or Justice, without a Conviction, nor who is upon this Certificate to bind him to the good behaviour.

Sect. 5. Observations.

This then being the Case. These Doubts and Questions may hereupon be moved,

1. What shall be intended by these words, [endeavouring himself to go to his Parish Church] and where a man shall be said to do, or not.

2. How these words in the Act, [and there abide soberly, &c.] shall be taken. As if one that in heart is against the thing, shall come to Church and stand under the wall, or sit in the Porch, or in some obscure place all the time, or in the place but doth no more joyn in the Service then a Child or a Dog, that is present; What can be done in this Case to him? If this answer the words, it does not answer the intent of the Statutes, and how this deceit may be prevented; or one come thither and sleep there. And upon 5 and 6 Ed. 6. whether by that Law, every man be bound to Morning and Evening Prayer both or one of them only.

4. How the Ordinary of the Diocess, or Justice of Assize, and Goal-delivery, or Justice of Peace may send his Certificate against one that absents himself from Church a year together, whether the offender must not first be convicted of the offence where the Statute it self prescribes no way of Conviction, how this can be but in the ordinary way of Tryal.

5. In what Court, and by what Judges, the Offender may be bound to the Good Behaviour.

6. The Act of 23 Eliz. being to this purpose That he that shall forbear, contrary to the tenour of the Statute of 1 Eliz. to come to Church above a moneth, is to forfeit 20 pounds a moneth; besides, if a year, to be bound to the Good Behaviour also. And the tenour of this Statute is That every one that hath not good cause to the contrary, is to come to Church every Sunday

Holy-day. It is to be enquired then, 1. Whether every one that is not at Church once every Holy-day, doth not *ipso facto*, by this Law forfeit his twenty shillings a moneth.

2. Whether every man be bound exactly, at all times, to all things in the Acts, touching this thing; for, if so, there will scarce be found a man, that may not be found faulty in one thing or other, and so indictable, and punishable for it. See the Book of *Common-Prayer*, 14 *Car.* 2.

3. That these things seem to be clear upon the Statutes.

1. That if the Offender be not called in question for his offence, within a moneth after it is done; or, being so, he is able to give a good reason, for his absence from Church, any Sunday or Holy-day, that he is not to pay his 12 *d.* a week, upon 1 *Eliz. Chap.* 2. and 3 *Jac. Chap.* 4.

2. That no man is to be questioned for any offence, upon 1 *Eliz. cap.* 2. before the Justices of *Oyer* and *Terminer*, or of *Assize*, after the next General Sessions, after the offence is done, be past. The Justices of Peace in this.

3. That no Judges, or Justices of the Peace, may bind any man to the Good Behaviour, for absenting himself from Church twelve moneths together, upon 1 *Eliz. cap.* 2. and 23 *Eliz. cap.* 1. till a Certificate of the offence be first sent by the Ordinary of the Diocess, or, by a Justice of Assize, and Goal-delivery, or a Justice of Peace of the County, where the Offender doth dwell.

4. That if any Indictment be framed upon these Statutes, or any of them, it must be done with great Caution, for many of the Offences framed in form of the Acts, are not offences, but when joyned

joyned together with other offences; and some are offences (though single, and without others.) And the Indictment must be framed according to the Act.

5. That in all Cases, upon these Acts, for any offence done against them, or either of them (save onely for the not going to Church every Sunday, and the 12 d. Forfeiture for the same) no Offender can be punished, or Penalty be inflicted, untill the Offender be duly convicted of his offence. And this must be by Indictment, or Presentment, in the ordinary way, Traverse and Tryal upon it, or Confession of the Party, and Judgment thereupon.

6. That for anything, as to coming to Church, against the People, there is nothing at all added by the new Law of 14 Car. 2. but the Law is in this, as it was before. Nor have the Justices, by that Law, any thing to do in their Sessions. Otherwise, it is without question, that the Justices (in their Sessions) have power to hear and determine the other offences: For by 3 Jac. 4. the Justices may hear and determine all offences, for not receiving the Sacrament according to that Act; and, for not coming to Church, according to former Laws.

These Statutes then being so many, and some of them so intricate; it will be the wisdom of the Justices of Peace, and all others, that shall act any thing upon them, to do it with good advice. But this is without question, That Proof being made by one Witness, to any one Justice, against any person, that he doth not go every Sunday to some Church or Chappel; or the Party himself confessing it, the Justice may call the party before him, and if he cannot shew a good excuse for it, he may send his Warrant, under his Hand and Seal, to the

Caution to the Justices.

Out of Sessions.

Church-warden of the Parish, to levy by distress and sale of Goods, 12 d. and for lack of distress, to send him to Prison till he pay it. But this must be done within a month after the offence committed, 3 Jac. 4. And this the Justice may safely proceed upon.

Out of the King's Letter before mentioned, directed to the Arch-Bishop, it is enjoyned.

First, That the Minister do, as oft as he can, read the Prayers of the Church himself; and when he cannot so do, that he procure or provide some fit Person, in Holy Orders, to do it, with such gravity, distinctness, devotion, and reverence, as becomes so holy an Action.

Secondly, That if he want time for his Sermon and Common-Prayer, both at length; that he rather shorten his Sermon, then omit any thing of the Prayers, lest he incur the Penalty of the Act for Uniformity, requiring them to be read, as the Book directs.

CHAP. VII.

Of Ceremonies, and Rites, and Ornaments, upon 2 Ed. 6. Chap. 1. *and* 3 Ed. 6. Chap. 1. *and* 1 Eliz. Chap. 1. 14 Car. 2.

AS to this, these things are to be known out of the Statute-Laws. *Sect. 1.*

1. That it was ordained, by 1 *Eliz. cap.* 1. That such Ornaments of the Church, and the Ministers thereof, as were used 2 *Ed.* 6. and appointed by the Act of the 2 and 3 *Ed.* 6. *cap.* 1. That such should be used, until other order were taken

by the Queen, and the Commissioners then appointed in Causes Ecclesiastical; the which thing (it seems) was then thought of, as necessary, or convenient to be done; but it was never done.

The offences and punishments, in the Minister.

2. The Offences herein also, are either in the Minister, or in the People, or in both.

1. In the Minister, if that he, in administring of the Sacraments, in any Cathedral, or Parish Church, shall wilfully, and obstinately standing in it, use any other Rite or Ceremony therein, than what is appointed, he shall forfeit for the first offence, the profit of all his Spiritual Livings for one year (if he hath any) and be imprisoned six moneths without Bail. For the second offence, he is to lose all his Spiritual Promotions forever, and to be imprisoned for a year. And for the third offence, to lose all his Spiritual Promotions for ever, and to be imprisoned during life, upon 1 Eliz. Cap. 2. And by 2 and 3 Ed. 6. Cap. 1. in case the same Act be in force (as it seems to be) the Offender is also for the same offence, to suffer the first time, the loss of any one of his Spiritual Promotions, which the King shall please to take, for one whole year, and Imprisonment for six moneths, without Bail. For the second offence, the loss of all his Spiritual Promotions, and Imprisonment for a year. And for the third offence, Imprisonment for a year. And if he have no Spiritual Promotion, then for the first offence, six moneths Imprisonment, without Bail. And for the second offence, Imprisonment during life. And hereupon it is to be observed, That if the Act of 2 and 3 Ed. 6. be still in force (as it seems to be) then must this Offender suffer also, the Penalties of that Statute (for this offence) twice; and that such of them as are capable of doubling, must be doubled.

The Penalty for using any other Ceremony, then what is appointed.

Observation

3.

2. If a Clergy-man shall wilfully refuse to observe these Orders and Rites, or shall openly deprave the same by Word or Deed, after publique admonition by the Bishop, and shall refuse the Oath of Supremacy the second time, it being duly tendered to him; this may be Treason, by 5 *Eliz.* cap. 1. All these Laws are now revived and confirmed, by 14 *Car.* 2. as to the Common-Prayer Book. And this is added, That where a Minister that hath a Benefice with Cure, and is resident upon it, and hath a Curate under him, and doth not once a month himself read the Common-Prayer, and administer the Sacraments, and other Rites of the Church, as in the Book of Common-Prayer is set down, he forfeits five pounds, to be levied by Warrant of two Justices. See for this, *Chap.* 4. *Sect.* 2. And by this New Law, the sign of the Cross is to be used in Baptism, and kneeling at the Lord's Supper, and at the Prayers; and standing up at the Creeds, and some other Ceremonies are to be used by Ministers and People. And for not doing hereof, a man may be indictable, 14 *Car.* 2. but not before the Justices of the Peace.

The penalty of a Minister refusing to observe the Ceremonies appointed, or to deprave them; and to refuse the second time the oath of Supremacy.

Treason.

Sign of the Cross.

Kneeling at the Lord's Supper.

3. In the People: If any of them shall be present at, or joyn in any of the publique Services, wherein other Ceremonies, then what are appointed, shall be used, he is, for the first offence, to be imprisoned six moneths without Bail. For the second offence, twelve moneths. And for the third offence, during life, upon 5 and 6 *Ed.* 6. cap. 3.

In the People. *Sect.* 2.

The Penalty for using any other Rites then what are appointed.

4. It was in 1 *Eliz.* cap. 2. provided, That the Ordinary should punish the things in that Act, as was formerly used: But he that is punished in the Spiritual Court, is not afterwards to be punished

In the Secular Courts.

The power of the Justices herein.

than the Civil Court, & sic e converso. But no man may be punished for any of these offences any other way, but by Indictment, or Presentment, and a Traverse and Tryal, or an Confession of the Party presented, or indicted thereupon in the open Sessions. And care must be had, in the framing of an Indictment, upon 1 *Eliz. cap.* 2. for it seems the Title of the *Act*, in the Printed Book, is mistaken, *Dyer* 203.

In the Sessions.

Mayor and Head-Officers of Corporations.

5. Justices of *Oyer* or *Terminer*, and of *Assize*, at their Open and General Sessions, may hear and determine any thing within the *Act* of 1 *Eliz. cap.* 2. And hereon the Bishop of the Diocess may join with them also, if he please. Also, the Mayor and Chief Officers of Cities and Corporations may hear and determine all offences of 1 *Eliz. cap.* 2. within 15 dayes after *Easter*, and St. *Michael* the Arch-Angel, in the like manner as the Judges may do, by 1 *Eliz. cap.* 3.

Mayor of a Corporation

Within what time the offender is to be published.

6. That no person is to be punished, upon 1 *Eliz. cap.* 2. for any offence within this Statute, unless he be thereof indicted at the next General Sessions, after the offence done, before the Justices of *Oyer* and *Terminer*, or Justices of *Assize*. See *Chap.* 3. more of these things.

Justices of Peace.

7. That there is nothing about Ceremonies, for which the people may be punished, upon the New Law of 14 *Car.* 2. Unless it be for refusing to kneel, or to have his child Christned with the Sign of the Cross. And for this, he is indictable; but not before these Justices of Peace.

Observation.

8. This thing only, in this New Law, and the Old Laws together, seems to be a little inquirable into; that there being so many things, by the Book of Common-Prayer, required in the Gestures of

of the Minister and People. That some things they are to read with a loud voyce. Some things the Priest is to say standing, as the *Absolution*, *Creed*, &c. Other things he is to read kneeling, as the *Prayers*. Some things the People are to say standing, as *Gloria Patri*, the *Creed*, &c. And some things they are to pray kneeling, as the *Prayers*. And all the Prayer to be read, and Ceremonies to be observed every day. Whether for any omission herein, the Minister, or People, be not, *rigore juris*, in extremity, indictable for it, and liable to all the Penalties appointed to be inflicted for the same, or not. And if that Law shall be literally taken, how men shall endure to kneel so long as the whole Common-Prayer time.

Of Ornaments.

Such Ornaments of the Church, and Ministers thereof, are, at all times of their Ministration, to be retained and used, as were, in the Church of *England*, by Authority of the Parliament, in the second year of *Ed.* 6. See at the beginning of the Common-Prayer, and 14 *Car.* 2.

SECT. II.

Of Ceremonies and Rites.

AND, as to the *Canons* of 1603. this is to be known.

Ministers must observe all the Rites in the Common-Prayer Book *Sect.* 3.

1. That Ministers must observe the Orders, Rites, and Ceremonies, in the Book of Common-Prayer, in reading of Scriptures, saying Prayers, and

and administration of Sacraments, without lessening it, in regard of Preaching, or adding any thing in the matter or form thereof, *Can.* 14.

To wear a Surplice.

2. That every Minister is herein to wear a decent Surplice, to be provided by the Parish, at the discretion of the Ordinary; and Graduats upon their Surplices hoods according to their degrees in the University. And others, that are no Graduats, a Tippet of Black, if it be not Silk, *Can.* 58.

The Rites to be used in Colledges and Halls, and both the Universities.

3. That in the whole Divine Service, and Administration of the Communion, in all Colledges and Halls, and in both the Universities, the Orders and Ceremonies shall be duly observed, as they are set down in the Book of Common-Prayer, without any omission or alteration.

What they are to wear there.

4. That Masters and Fellows of Colledges or Halls, and all the Schollars and Students, in either of the Universities, shall, in their Churches and Chappels upon all Sundays, Holydays, and their Eves, at the time of Divine Service, wear Surplices, according to the Order of the Church, and Graduats, their Hoods with their Surplices, as do belong to their Degrees, *Can.* 17.

To be uncovered in the Church at Common-Prayer. Kneel at Prayer. Stand at the Creeds.

5. That no man is to cover his head in the Church or Chappel in the time of Divine Service, except he have some infirmity; and then with a Cap, or Coif onely. All men are to kneel whiles the General Confession, Litany, and other Prayers are read; and to stand up at the Belief, according to the Book of Common-Prayer. And whensoever, in time of Divine Service, the Lord Jesus shall be mentioned, due and lowly Reverence must be done, as hath been accustomed, *Can.* 18.

6. That

6. That Copes are to be worn in all Cathedral Churches, by those that administer the Communion, by *Can.* 24. And Surplices and Hoods, in Cathedral Churches, where there is no Communion, *Can.* 25. Copes, in Cathedral Churches, to be used.

7. That the Sign of the Cross is to be used, and not omitted in Baptism, by *Can.* 30. The Cross to be used in Baptism.

CHAP. VII.

Of Oaths.

SECT. I.

Of Forbidden Oaths.

NO Ecclesiastical Judge, or Officer, may administer the Oath *Ex Officio*, or any such like Oath, upon any man, at this day, 13 Car. 2. *Ex Officio.*

If any commit any wilful Perjury, or suborn another, to commit such a Perjury, in a Court of Record, Court-Baron, or Hundred-Court, about Lands or Goods, Debts or Damages; this is punishable before the Justices of the Peace in their Sessions. He that commits it, forfeits twenty pounds, and is to be imprisoned six Months without Bail, and disabled to give Testimony, whiles that Judgment doth stand. And if he have not to pay the Fine, the Sheriff (in the County) or Head-Officer in a Corporation, is to set him in the Pillory, in some Market-place, and to have both his ears nailed. And for subornation of Perjury he forfeits 40 *li.* and, for want of ability to pay, to be six months imprisoned without Bail; to stand on the Pillory Perjury.

an

an hour, and to be disabled to give his Testimony in any Court of Record, untill the Judgment be reversed; by 1 *Eliz. Chap.* 9. 13 *Ed.* 1. 1. But the Justice's Power herein, is all of it to be executed in the Sessions, by way of Indictment, and not otherwise.

Swearing and Cursing.

As to him that shall offend against 21 *Jac. Chap.* 20. by Swearing or Cursing; in this Case, any one Justice may convince him of this Offence (so as it be done within twenty dayes after the offence committed) by his own Confession, or by the Oath of two Witnesses; and then may send his Warrant to the Constables, Church-Wardens, and Overseers, to levy of the Goods of the Offender (if he be above twelve years old) twelve pence for every Oath, to the use of the Poor of the place; and, for lack of distress, to put him in the Stocks three hours. But if he be under twelve years old, then he is to be whipt by the Constable, or by the Parent, or Master, in the Constable's presence, 21 *Jac.* 20. But for the *All* of the 20 of *June*, 1650. that is now out of doors, and of no use to us. And it seems questionable, Whether the Justices may do any thing at all in the Sessions, upon this *All* of 21 *Jac.* And yet if one shall swear in their presence, they may (perhaps) punish him as an Offender, under one of the general words of their Commission, by the Common-Law.

SECT.

SECT. II.

Of the Oath of Supremacy, upon the Statute of 1 Eliz. *cap.* 1. *and* 5 Eliz. *cap.* 1.

THE effect of both these *Acts* are to this purpose.

1. The Form and Words of the Oath are set down, 1 *Eliz.* 1. Who were to take it and before whom.

2. Divers Officers, Ecclesiastical and Civil (then in being) were enjoyned to take it.

3. It was ordained, by 5 *Eliz. Chap.* 1. for future times, That all such as should be promoted by the Queen, to any Ecclesiastical, Temporal, or Lay-Ministery, or Promotion; that all such as should take Orders, or be preferred to any Degree of Learning, in any University; that all such as should take Holy Orders; that all School-masters, and publick and private Teachers of Children; that all utter-Barristers, Benchers, Readers, Ancients, and such as take Degrees in any Inns of Court; That all principal Treasurers, and such as be of the Grand Company of every Inn of *Chancery*; That all Attorneys, Protonotaries, and Philizers, towards the Law; That all Sheriffs, Escheators, and Feodaries; That all Persons that should be in any Ministery, or Office at the Common-Law, or other Law; or that should belong to any Court, or to the Crown, or be retained into the Queen's Service; and that all Knights, Citizens, and Burgesses of Parliament; that all these should be bound to take it.

4. The

The Act doth appoint before whom these Persons should take, and who should have power to minister it; amongst which, the Justices of the Peace are none.

The Penalty for refusing to take it.

5. It is further provided, by 5 *Eliz.* 1. That if any of those persons, to whom the Oath was to be so administred, when the same should be duly tendered to them, by such as were appointed to tender, and give it, should wilfully refuse it, and be within a year after attainted thereof, that he should be in danger of a *Præmunire*. And if the same should be again tendered the second time, three moneths after the first tender, and he refuse it again; or, if he be formerly convicted, of maintaining the Jurisdiction of the Bishop or See of *Rome*, this will be High-Treason, in case he be a Spiritual Person, or hath Office in the Church, or in any Ecclesiastical Court; or shall refuse the Orders and Rites of the Church for Divine Service, after that he hath had publick Admonition by the Ordinary, or some Officer for Ecclesiastical Causes, to keep them; or such as shall say, or hear private Mass, or shall by Word, Writing, or other publick Act, openly deprave any of the same Rites or Ceremonies used, by 5 *Eliz. chap.* 1. and none others are compellable to take it, upon a second Tender, or to be in danger by the Refusal thereof. And they that have Authority to take this Oath, before whom such Refusal is made, are within forty dayes, (if it be Term time) or the first day of the next Term, to certifie under their Hand and Seal the Name, Place, and Degree of the person so refusing, in pain of one hundred pounds, upon 5 *Eliz.* 2. See *Chap.* 3. *Sect.* 3.

High-Treason.

5. An

5. Any of the offences against this Statute, (but Treason, and Misprision of Treason) are inquirable before the Justices of the Peace in their Quarter-Sessions, within a year after the offence is done, by 23 *Eliz. cap.* 1. But there must be two Witnesses, *viva voce*, to convict an Offender upon this Statute, of 1 *Eliz. chap.* 1. The Justices office in this in the Sessions.

By all which it appeareth,

1. That the Oath that is to be taken in this case, must be taken in the very words set down in the Statute. Observable.

2. That no other man is compellable to take this Oath, but the persons before set down.

3. That none may tender or administer this Oath, but the persons named and authorized by the Statute.

4. That where it is tendered, to make a man a Refuser, it must be formally tendred, having the Oath, and a Bible before him. And it seems therefore, if one authorized to give it, shall onely ask one bound to take it, Whether he will take it, and not tender the Books to take it, that this is not sufficient.

5. That it seems reasonable, if the Party desire it, that he should have a reasonable time to consider of it, at the least, he must have time to read it, or hear it read, The Justices office in this

6. That no Justice of Peace, by vertue of that Office, may either require the giving of, or give this Oath. The Justices office in this

7. That no man is to be punished for his Refusal, to take this Oath, untill he be first convicted of this his Refusal, in the ordinary course; which is, by Indictment of the Person, and his Traverse or Confession upon it. And upon the Tryal, on the

the Indictment also, there must be (by the express words of the Act) two Witnesses present, face to face, if there be so many alive of them, that can prove the Fact.

Observation

Let it be observed then, how unwarrantable and dangerous a thing it is, for Justices of Peace, or others, not authorized by the Statute, to tender or minister the Oath to some, out of their own Counties; and that only by asking them, Whether they will take it? And upon such a Refusal, as to say, They will consider of it, or the like; to send the Party to Gaol. It concerns the Justices of Peace therefore to be cautious herein; and, in all that they do, strictly to pursue the Direction of the Statute.

Caution to Justices.

SECT. III.

Of the Oath of Obedience or Allegiance, upon the Statute of 3 Jac. cap. 4. and 7 Jac. cap. 6.

The effect and Tenor of 5 *Jac. cap.* 4. is to this purpose.

1. The Title of this Act, is for the discovering and repressing of Popish Recusants; and the Preamble, and whole Act, is altogether about such kind of persons.

2. The Oath to be taken, is set down in the very words, wherein it must be taken.

Who were to take it. And before whom.

3. All persons of 18 years old, and upward, (other then Noblemen, and Noble Women) being convict, or Indicted of Recusancy, or for not going to Divine Service, or not receiving of the Sacrament twice in the year last before, according to the Laws of the Realm, and such as passe through the

the County unknown, and, being examined, shall confess, or not deny, that they are Papists, or that they have not received the Sacrament twice the last year before: And such as are to go out of the Realm to serve a Forreign Prince, are bound to take it: these last are also to enter into a Bond, and, if they go out, and omit either of them, it is Felony.

4. That to all such persons (except Noble men and Women) the Bishop within his own Diocess, or any two Justices of the Peace (*Quorum unus*) out of Sessions, within their own Countries, might have tendered it, and given it. And to Noblemen, and Noble-women, six of the Privy-Council might have tendered it, and given it. Felony. Out of Sessions.

5. It is further provided by the said Act, that the Bishop within his Diocess, and two Justices of the Peace, *Quorum unus*, within their limits, before whom the Oath was to be taken, might have required the persons to whom they might give to take it. And if thereupon, such person refuse to take it, the Bishop or two Justices may commit the party to Goal, till the next Assizes, or General Quitter-Sessions, and then it may be tendered to him again; and if then he again refuse, he shall be in a *Præmunire*. So that upon this Statute, such persons authorized to give the Oath, may not tender it to any person, but to such persons as are for the Reasons laid down, suspect of Popish Recusancy.

6. The Tenor and effect of *7 Jac. cap. 6.* is as followeth.

1. The first Clause thereof is, That all sorts of persons whatsoever, then in being, should take it,

2. Is set down, before whom, such persons, and all others afterwards in their Case, should take it.

3. It is then added further, That any one of the Privy Council, or any Bishop in his Diocess, may require any Baron or Baroness, of 18 years of age, or above, to take this Oath: and for any two Justices of the Peace *Quorum unus*, in the County, to require any person above 18 years old, under the degree of a Baron, to take it.

4. And then it is further provided, That if any person of 18 years old, or upwards, under the Degree of a Baron or Baroness, shall be Presented, Indicted, or convicted before any Judge that hath power to take such Indictment or Presentment, for not coming to Church, or not receiving the Sacrament, according to the Laws and Statutes. The Lord Chancellor, Lord Treasurer, Lord Privy Seal, or Principal Secretary, and any two more of the Privy Council, may require such a one to take the Oath. And if any person under that Degree, and of 18 years old, or upwards, that shall stand so Presented, Indicted, or Convicted as aforesaid: then any one Justice of Peace of the County near adjoyning to the place, where the person dwelleth, and the Justice shall find cause of suspition: He may upon notice thereof, require such person to take the Oath.

5. If the Minister, Petty Constable, or Churchwardens, or any two of them, shall complain to any Justice of Peace, where the party dwells, and within whose Commission he is, and the Justice shall find cause of suspition of Recusancy, Then this Justice upon notice hereof, may tender the Oath to such person, and require him to take it; and if he refuse, commit him to prison without Bail

till

till the next Assizes, or Quarter-Sessions, where it may be tendered to him again. And if he shall then also refuse to take it, he will be in a *Præmunire*. And so of the Wife of a Popish Recusant, till she conform. Præmunire.

SECT. IV.

Out of all this it may be observed. 1. That some doubt may be made upon 3 *Fac.* The Title, Preamble, and Body whereof, is about Popish Recusants only, whether therefore the Oath may be tendred to any other sort of Recusants but Popish Recusants. Observation

2. That if others may be hereby pressed to take the Oath, yet is some doubt made, whether this upon 3 *Fac.* (the Title, Preamble, and Body of which, is about Recusants only) may be tendred to any but Recusants. That if it be taken, it must be taken in the very words set down in the Statute.

3. That it is thought by some, that no man is to be compelled to take this Oath by the first of these Statutes, but such as are named, and described in the Statute, as, one that is first indicted of Recusancy, *&c.*

4. It is conceived also upon this Statute, That no man may tender, or administer this Oath to such person appointed to take it, but the persons and in the Case mentioned in the Statute; and therefore that a Tender otherwise is not at all Penal to him.

5. That where it is tendred, to make a man a Refuser, it must be formally tendred, with the Bible and Oath, and (as some think) read before him; and that if without this, he shall only ask

him, whether he will take it, that this is not sufficient.

6. It seems reasonable, that the party to take, should, if he desire it, have a little time to consider of it, at least, he must give him time to read it, or to hear it read to him.

7. That the last Statute of 7 *Jac.* is doubtful, and where it binds all persons whatsoever to take it, it seems to intend only, *hac vice*, and not for ever afterwards. And that after that time, none are by that Statute to be forced to take the Oath, and that such, and none others, but such as are indicted, or presented for not coming to Church, or for not receiving of the Sacrament, according to the Laws and Statutes of the Realm; and such as upon the Complaint of the Minister, Constable, and Church-wardens, are rendred suspitious to a Justice of Peace, that such only are to be required to take it. It is made a Query also by some, whether he that hath taken it once, may be forced to take it again, and punished for his refusal thereof. And the words of the Law being thus, speaking of the Tender of it, *viz.* being duly tendered, according to the true intent and meaning of the Statute, whether it be a good Tender where the Act is not read. But it is said to be read, 9 *Jac.* in *Serjeants-Inn Fleetstreet*.

The Power of the Justice of Peace.

1. That the Statute of 7 *Jac.* that doth give to two Justices power, to require the persons therein named to take the Oath, doth by this give them power to make a special Warrant to Constables, to bring the Bodies of the parties who are to take the Oaths before them to do it. For when the Statute gave power to Justices of Peace, to require any person or persons to take the Oath, it doth

doth implicitly give them power to make such a Warrant, *Quando lex aliquid alicui concedit, conceditur & id sine quo res ipsa esse non potest.*

2. It doth not become the Justices to go to seek the Parties, *Cook* 12. 130, 131. But that the Constable may not upon this Warrant, break the house, to apprehend the party, till he hath refused to take the Oath before them, who have authority to tender it to him, or commit some contempt to the King, for he is not yet an offender, nor indicted, nor charged by any matter of Record. Constable. Break house.

It was Resolved, That a Baron and Baronness, as to the Tender of the Oath, need not to be indicted, *&c.*

4. That the words [of, or above the said age or degree] in the Statute, are to be indicted of the said age, and above the said degree.

5. That these words [*If any person being of the age of* 18 *years, or above, shall refuse to take the Oath duly tendered, &c.*] That this shall extend to all that went before.

6. If Justices of Peace upon refusal before them, commit any person to Goal, without Bail or Mainprise, and mention in their Warrant, the Tender and refusal, then the Justices of Assize, or Justices of Peace, ought to tender the Oath again, and to have a special Indictment: For the words of 3 *Jac.* are, *And if the said person or persons, or any other whatsoever, &c.* So that this word (*Other*) excludes the persons who were committed for refusal. But it seems, if the *Mittimus* of the Justice of Peace, *&c.* do not comprehend any Tender or Refusal of the Oath, then they may be Mittimus. Indictment.

generally indicted, as upon refusal in open Court, for the Court cannot take notice of Tender, and refusal in such case. And it was Resolved, That the major number of Justices, who commit the parties, have Election, either to commit to the next Assizes, or to the next Sessions: For the words of the Statute being in the Disjunctive, some may be more fit to be committed, till the next Assizes, some till the next Sessions. And two Justices *quorum unus*, by 7 *Jac.* may commit any one above 18 years old, and under the degree of the Nobility, albeit he be not indicted or convicted, *&c.* But a Justice of Peace cannot commit any, unless they be prosecuted, indicted, or convicted, according to the Statute of 7 *Jac.* 7. And it was resolved by all, That if the Indictment be commenced upon 3 *Jac.* upon refusal in open Court, the Indictment may be short and general, of what the Parties are indicted, *&c.* And not so, if the Indictment be upon the Commitment made by two Justices of Peace: this is good of any person whatsoever. But if, in such Case, the *Mittimus* be special, comprehending the Tender and Refusal of the Oath, there ought to be a special Indictment and refusal in open Court. Also, if the Justices of Peace make a special *Mittimus*, then the Indictment ought to be special, *viz.* to recite, that the party was indicted, or presented, *&c.* in certain, *&c.* according to 7 *Jac.* And that he refused before one Justice of Peace, or otherwise in open Court. But if the *Mittimus* be general, then as before, the Indictment before the Justices of Assize, at the Assize, or Justices of the Peace at the Sessions, may be general upon 3 *Jac.* *Cook* 12. 133.

Indictment.

6. If

6. If a person be fugitive in another County, and so evade the Statute for the present, he may be indicted for Recusancy, and the Indictment sent into the Kings Bench, there to be proceeded upon.

7. If they be in their houses, and the door shut, *&c.* then they may be indicted before Justices of Assize, or of the Peace, and the process shall be as in Trespass. And after a *Venire facias*, *&c.* by force of a *Capias* to the Sheriff, he may, after a Request made to open the door, break open their Houses, *&c.* And if the Sheriff bring the party in Court, upon his refusal to take the Oath there, he may be generally indicted as before.

8. If one be indicted for Recusancy, the Court may proceed by process, upon 23 *Eliz.* or by Proclamation, upon 28 *Eliz.* 2.

9. That no man may be attainted in a *Præmunire*, but after two Indictments, two Tryals, and two Verdicts. Let it be then observed upon the whole matter, If it be not a dangerous thing for one or two Justices, to require this Oath of them that are not bound to take it upon the first Act. Or for one Justice upon the last Act, to require it of a person not suspected, or complained of by the Minister, Constable, or Church-wardens. Or for any Justice of Peace, (except it be all the Justices in their publick Sessions) to require it of a person before them. Or to require any person to take it, that lives in another County, save only in the Cases before set forth. Or for Justices to tender it out of their own County, to any person whatsoever. And upon such Tenders, to send the Refusers to Goal. And therefore it will concern the Justices of Peace, to be careful what they do herein.

Observation.

Caution to Justices.

CHAP. IX.

Of Conventicles, upon 35 Eliz. cap. 1.

Sect. 1. AS to this, these things are to be known from the Laws of the Nation. That the Title of this Statute, is, Punishment of persons, obstinately refusing to come to Church, and perswading others to impugne the Queens Authority in Ecclesiastical Laws, *&c.*

1. That the Preamble of this Statute, is, To avoid the Inconveniences, by the dangerous practises of seditious Sectaries, and disloyal persons.

2. That a Conventicle (in the sense of this Statute) seems to be, Where any meeting of people is under Colour or pretence of any exercise of Religion, contrary to the Laws and Statutes.

3. It is by this Act provided, That if any, and (as *Wingate* doth abridge it) If any Popish Recusants above sixteen years old, which shall without a lawful cause, obstinately refuse to repair to some Church or Chappel for a moneth, to hear Divine Service; by Printing, Writing, or expres Speeches, advisedly, or purposely practise, or go about to move, or perswade any person to oppose the Queens Authority, in Causes Ecclesiastical; or, to that end, shall advisedly and malitiously move, or perswade any person whatsoever, to forbear coming to Church, to hear Divine Service, or to receive the Communion, according to the Laws of the Nation, or to come to, or to be present at any unlawful Assemblies, Conventicles, or Meetings, under Colour or pretence of any Exercise of Religion,

Religion, contrary to the Laws and Statutes: or if any perſon, which ſhall obſtinately refuſe to repair to ſome Church or Chappel, or uſual place of Common-Prayer, and ſhall forbear by the ſpace of a moneth, to hear Divine-Service, as is aforeſaid, ſhall either of himſelf, or by the perſwaſion of another, willingly joyn in, or be preſent at any ſuch Aſſemblies, Conventicles, or Meetings, under colour or pretence of any ſuch Exerciſe of Religion, contrary to the Laws and Statutes of this Realm, as is aforeſaid. He that ſhall offend either of theſe wayes, being thereof lawfully convicted, is to be committed to priſon, and there to remain without Bail, till he conform, and come to ſome Church, Chappel, or uſual place of Common-Prayer, to hear Divine Service, according to the Laws and Statutes aforeſaid. And till he make an open ſubmiſſion in the words ſet down in the Statute, *viz. I A. B. do humbly acknowledge and confeſs, that I have grievouſly offended God, in contemning his Majeſties godly and lawful Government and Authority, by abſenting my ſelf from Church, and from hearing Divine Servine, contrary to the godly Laws and Statutes of this Realm, and in uſing and frequenting of unlawful and diſorderly Conventicles and Aſſemblies, under pretence and colour of exerciſe of Religion. And I am heartily ſorry for the ſame: And do acknowledge, and teſtifie in my Conſcience, That no other perſon hath or ought to have any Power or Authority over his Majeſty. And I do promiſe and proteſt without any Diſſimuldtion, or any colour or means of any Diſpenſation, that from henceforth, I will, from time to time, obey and perform his Majeſties Laws and Statutes, in repairing to the Church, and hearing Divine Service, and*

In the Statutes.

do

do my uttermost endeavour to maintain and defend the same.

Sect. 2. And if he, being so Convicted of this offence, shall refuse to conform, and come to Church, and to make this submission within three moneths after his Conviction, being thereunto required by the Bishop of the Diocess, Minister of the place, or any one Justice of the Peace of the County where he shall be; That then such person, upon the Command of any one Justice of the Peace of the County where he shall be, shall upon his Oath in the open Sessions, or at the Assizes and Goal-delivery of the same County, before the Justices there present, abjure the Realm and Dominions of the King for ever, unless by Him he have Licence to return. And thereupon shall depart the Realm at such a Haven or Port, and within that time, as by the said Justices shall be limited, before whom the Abjuration shall be made, unless he be letted by some reasonable cause allowable in the Case of Abjuration for Felony; and then within convenient time after, as in the case of Abjuration for Felony. The which Abjuration, the same Judges are to certifie to the Justices of Assize and Goal-delivery at the next Assizes or Goal-delivery, to be held for the County. And if he refuse thus to abjure, or after he hath so done, shal not depart accordingly, or departing, shall return without the King's Licence, that then he shall suffer as a Felon. But if after the offence, and before he be required to make his Abjuration, he shall repair to some Parish-Church on some Sunday, or Festival-day, and then and there hear Divine Service; and at Service-time, be-

before the Sermon, or reading of the Gospel, make his publick and open submission and Declaration of his Conformity to the Laws, as before is set down; That then he be clearly discharged of all the Penalties, to be inflicted or imposed by the Act for the offences aforesaid. The which submission, is to be entered by the Minister of the place. And if the offender do after this relapse, or eftsoons obstinately refuse to go to some Church, Chappel, or usual place of Common-Prayer, to hear Divine Service as aforesaid, or shall come, or be present at any such Assemblies, Conventicles, or Meetings, under colour, or pretence of any exercise of Religion, contrary to the Laws and Statutes, that then he should lose all the benefit of his submission.

Sect. 3. The Penalty for refusing to go to Church a moneth, and of going to Conventicles.

5. The next Branch of the Act of the 35 *Eliz.* is to this purpose.

That if any one obstinately refuse to go to any Church, and shall, for a moneth, forbear to hear Divine Service, if such a one shall willingly joyn in, and be present at any such unlawful Assembly. The penalty of the Statute (which is that before named) is to be laid upon him.

What the Justices may do upon this Statute.

And upon this Branch, some Questions are moved, as whether the Justices of Peace have any thing to do, and what they have to do upon this Statute of 35 *Eliz.* they not being named in the Statute.

Sect. 4. In the Sessions.

But this seems to be agreed, That no man is to be imprisoned, or put to an open Confession for any one of these offences, till he be first lawfully convicted in the Sessions by Indictment of the party, Traverse, &c. or otherwise, according to the direction of the Laws in the Case.

And

And that the Law is very doubtful in the Case, we may find by the Resolution of the Judges called together of purpose, to consider of this Statute 20 *Eliz.* and this by special Command of the King, where the greatest part of them gave this Opinion, That the Statute had not been put in ure, See it in *Hutton. Rep.* 61.

Caution to Justices.

It will be the wisdom of Justices of Peace, to be very cautious what they do upon this Statute, whereupon so many knotty doubts may be raised. For if any Justice should commit any man to prison upon it, out of Sessions, and in case where the Law doth not warrant it: the party imprisoned, may have his *Action* of false Imprisonment against him. And by his *Habeas Corpus*, remove himself into the Kings Bench, and there be discharged.

So also if the Justice shall require Sureties of the Peace, or good Behaviour, and commit a man for refusal to give, or bind a man to appear at Sessions, in case where the Law doth not give any authority or direction to Justices so to do. For the Statutes about Recusancy, and not coming to Church; See more in Chap. 6. & 14.

CHAP. X.

Of Quakers, upon 14 *Car.* 2.

About Quakers.

AS to this, these things are to be known.

1. That Quakers, by the intention of that *Act*, seems to intend such as hold dangerous Opinions; and (amongst others) that the taking of an Oath in any case whatsoever, although before a lawful Magistrate, is altogether unlawful, and contrary

trary to the Word of God; and do refuse an Oath lawfully tendered.

2. That if any person, who maintain, that the taking of an Oath in any case whatsoever (although before a lawful Magistrate) is unlawful, and against the Word of God, shall wilfully refuse to take an Oath, where by the Law he is bound to take it, being duly tendered to him, or shall endeavour or perswade any other person, to whom any such Oath shall be so tendered, to refuse and forbear the taking of the same Oath; or shall by Printing, Writing, or otherwise, go about to maintain and defend, that the taking of an Oath in any case whatsoever, is altogether unlawful. And if the said persons commonly called Quakers, shall go from the places of their dwelling, and assemble to the number of Five, or more, of 16 years old and upwards, at one time, and in one place, under pretence of joyning in a Religious Worship, not authorized by the Law of the Realm, he forfeits being convict by Verdict of 12 men, or by his own confession, or the notorious evidence of the Fact, for the first offence, any sum not above 5 l. to be levied by distress and sale of Goods of the party, by warrant of the parties before whom the conviction shall be. And for want of distress, or not payment in a week, to be committed to the Common Goal, or house of Correction, for three moneths without Bail, to be kept at hard labour. In the Sessions.

And for the second offence, any sum not above 10 l. to be levied by distress as before; and for want of distress, or not payment in that time, to be committed six moneths to those places as before; this money to go towards a stock in the house of Correction, as the Justices shall appoint. And

for

for the third offence, after a second correction, to abjure the Realm, or else the King may cause them to be transported to any of his Plantations beyond Sea.

3. That Justices of *Oyer* and *Terminer*, of Assize, Goal-delivery, and of the Peace, may in their open and general Sessions, hear and determine these offences, and make out process thereupon, as in case of Trespass.

Qua. of Sessions. 4. That any Justice of Peace, Mayor, or chief Officer of a Corporation within the same, may commit to Goal, or bind over with Sureties to the Quarter-Sessions, any that offend in the Premises, in order to their Conviction.

5. That if any one convicted, shall after take the Oath he refused, and give Security not to meet again, he is to be discharged.

6. And now for the right understanding of this Law, it is to be enquired, who is the offender against it.

(1) And for this, it seems to be meant of Quakers only, and that it cannot be intended, nor extend against any others.

(2) That he that shall maintain the taking of a lawful Oath before a Magistrate, is unlawful; or shall wilfully refuse to take such an Oath, being legally required, or endeavour to perswade another not to take such an Oath, or shall by Writing or Printing, go about to maintain and defend, that the taking of an Oath in any case whatsoever, is altogether unlawful. And the same person shall also assemble with others (as in the Act is set forth) that he is the only offender against this Law. And that, to hold that opinion alone, and not to meet, or to meet; and not hold that opinion, that to do

any

any of these above mentioned things without the other, will not make him guilty; for the Statute is in the Copulative, and not in the Disjunctive.

(3) It is to be enquired, whether the Justices of Peace can by the words of this Law, otherwise then by way of Indictment, convict any man of this offence: And if yea, how?

(4) What shall be said a joyning in a Religious Worship against the Laws of the Realm?

(5) Whether any Justice of Peace, but a Justice within a Corporation only, may commit to the Common Goal, or bind over to the Quarter-Sessions, in order to conviction?

(6) If yea: In what case the Justices within, or without Corporations, may bind a man; or how he shall know him, or where a man shall be said an offender against the Law, and so liable to imprisonment, before he is examined and tryed?

The sum of all is this, That it is doubtful, whether a Justice within a County hath any thing to do out of the Sessions, upon this Law? The safe way therefore seems to be for Justices of Peace in these Cases, to proceed by way of Indictment in the ordinary course of Tryal, for there it will be out of question. Caution to Justices.

Of Conventicles.

And as to the *Canons* of 1603. this is further to be known.

That a Conventicle within the sense of the *Canons*, seems to be any meeting of Ministers, or others in any place, to consult about any matter or course to be taken by them or others, by their motion, tending to the Impeachment or depravation of the Doctrine of this Church, or of the Book of *Common-Prayer*,

Prayer, or of any part of the Discipline or Government in the Church of *England*. And for this, they are by the *Canon*, to be excommunicate, *ipso facto*, *Can.* 78.

CHAP. XI.

Of Holydayes, the Lords-day, Fast-dayes, Feast-dayes, and Fish-dayes, upon 1 Car. 1. 3 Car. 1. & 3 Ed. 6. 19.

Sect. 1. 1. NO concourse of people may be out of their own Parish for any pastimes whatsoever. Nor may there be any Bear-baitings, Bull-baitings, Enterludes, Common-playes, or unlawful pastimes on the Lords-day. And the offender herein, by the view of one Justice of Peace (in the County) or the chief Officer (in a Corporation) either by his own Confession, or the Oath of one witness before one Justice, or such an Officer, he shall forfeit to the use of the poor 3 *s.* 4 *d.* to be levied by distress and sale of Goods, by warrant from the same Justice or Officer to the Constables or Church-wardens of the Parish, and in case of lack of distress, the offender is to sit in the stocks three hours. But this must be prosecuted within 1 moneth of the offence committed. And if the Officer be questioned, he may plead the generall Issue, and give special matter in evidence, upon 1 *Car.* 1. And upon this Statute it seems the Justices have nothing to do in their Sessions.

Out of sessions.

Out of sessions. 2. No Carriers with Horses, Wains or Carts, or Drovers of Cattel may travail on this day, on pain of 20 *s.*

And

And any one Justice upon his own view, the confession of the party, or proof by the Oath of two Witnesses, may send his Warrant to the Constables, or Church-wardens of the place where, and to levy the 20 *s.* of the Goods of the offender, by way of distress, and sale of Goods, rendring, *&c.* But the offender must be questioned within six moneths of the offence done; and the Justice may, if he will, give the Informer a third part of the forfeiture. And here the forfeiture may be recovered by the Prosecutor in the Sessions of the County or Corporation, whereby it seems the Justices shall have Conusance of it in their Sessions, upon 3 *Car.* 1. In the Sessions.

3. No Butchers are to kill, or sell their meat on this day. And if they do, any one Justice (upon such a Conviction, as in the last Case) may send the like Warrant for the levying of 6 *s.* 8 *d.* as in the last Case for the 20 *s.* But no man is to be punished for this offence, after six weeks past. And here the Justice may also, if he please, give the Informer a third part. And upon this branch, it seems the Justices have nothing to do in their Sessions, upon 3 *Car.* 1. Here also the Officer may plead the general Issue, *&c.* Out of Sessions.

4. That if an Officer do upon this day arrest another upon any ordinary Process, or upon a Warrant for the good Behaviour in the Church, or Church-yard, immediately after Divine Service, especially when it may be done at another time, is an offence, for which a man may be indicted and fined, *Cro.* 1. 438. before the Justices in their Sessions. The Justice of Peaces office. In the Sessions.

5. Shooe-Makers may not put their Boots or Shooes to sale on the Sabbath-day, under pain of

3 l. 4 d. and to lose the value of what they so put to sale, 1 *Jac.* 22. And this the Justices of Peace may hear and determine within, but not out of their Sessions, the Acts or Ordinances of the 6th. of *April*, 1644. and 19. *April*, 1650. and 17. *Septemb.* 1656. about the Lords-day, are no Laws to us. Nor are we bound to the dayes of Humiliation or Thanksgiving, enjoyned by the 19. of *April*, 1650. *August* 24. 1642. 2d. of *Decemb.* 1646. 3d. of *June*, 1647. They are now of no use to us.

For *Fast-dayes*. By the new Statute of 12 *Car.* 2. It is Enacted, That every 30. of *Jan.* unless it fall on the Lords-day, and then the next day following, shall be for ever hereafter set apart to be kept, and observed as a day of Fasting and Humiliation, to implore the mercy of God, that neither the guilt of the sacred and innocent blood (of the late King) nor those other sins by which God was provoked to deliver both the King and Nation into the hands of cruel and unreasonable men, may at any time hereafter, be visited upon it, or its Posterity. But Justices have no power about this offence. See at the beginning of the Common-Prayer-Book, for the Fast on the *Ember-dayes*, *Lent*, *Rogation-dayes*, and *Frydayes*, but in *Christmas* for the Lords-day.

For *Holy-dayes*. That by 5 & 6 *Ed.* 6. *cap.* 3. It is provided, that every *Sunday*, and divers other dayes therein specially named, and no other day shall be kept Holy every year. And it is thereby provided, that this offence be punished by Ecclesiastical Censures, at the discretion of the Ordinary, and no other penalty appointed to be inflicted. But Husband-men, Labourers, Fishermen, and all other

other of what estate or condition soever they be, in the Harvest-time, or at any other time of the year, when necessity shall require, may labour, fish, or work any other kind of work at their will and pleasure. But this Act being repealed by 1 *Mar. cap.* 2. and after revived, by 1 *Jac. cap.* 25. to continue untill the end of the first Sessions of the next Parliament; and not having been, by any Parliament since, continued or revived, some Questions are made of the continuance of it. See *Wingat's Abridgment*, the 5 and 6 *Ed.* 6. 3. 15. by the 1 *M.* Parl. 1. repealed; and afterwards, by 1 *Jac.* 25. again repealed: and therefore *quære*, whether it be now in force, unless it had been revived by special words: But it seems to be well revived, by *Cook* 2. Part *Instit.* 680. It will therefore be the wisdom of the Justices of the Peace, to be well advised what they do upon it. But the Ordinance of the 3. of *June*, 1647. is now of no force to us.

5. Thanks is to be given to God on every Fifth-day of *November* publiquely, for our deliverance from the Gunpowder-Treason, 3 *Jac. cap.* 1.

Of Fish-dayes.

Sect. 2

6. That none may eat Flesh, upon dayes usually observed for Fish-dayes, on pain of 3 *l.* or three Moneths Imprisonment without Bail; and he that willingly suffers it in his house, and not discovers it to Officers, forfeits 40 *s.* by 5 *Eliz.* 25. So that it seems, both these Penalties, 2 and 3 *Ed.* 6. 19. and 5 *Eliz.* 2. 5. are to be inflicted for the offence. That by 2 and 3 *Ed.* 6. *cap.* 1. no flesh is to be eaten by any person whatsoever,

that have not Licenſe to eat meat from the King.

But ſuch as are aged, or ſick perſons, or Women with Child; or ſuch as are in Priſon, for ſome other cauſe, then for eating of Meat on Fiſh-days; and that during the time they ſhall ſo continue; or a Lieutenant, Deputy, or Captain of the King's Army; or by Licenſe of one of them, any of the Souldiers of the Army, in caſe of lack of other proviſion.

Sect. 3. Upon Fridays and Saturdays, Embring-days, and other days, commonly called *Vigils*, and in the *Lent*, and other accuſtomed days for Fiſh-days, under pain to forfeit, for the firſt offence, ten ſhillings, and Impriſonment ten days, and to eat no fleſh in that time. And after one Conviction, for the ſecond time, twenty ſhillings, and twenty days Impriſonment, and to eat no fleſh in that time; and the like for every offence afterward. But he that is queſtioned upon this Statute, muſt be queſtioned within, and not after three Moneths of the offence done. And this may be before Juſtices of the Peace, or of the Gaol-delivery only, who have power to hear and determine the offences thereupon. And it muſt be where-ever it is done, in the ordinary courſe of Indictment and Traverſe, or Confeſſion thereupon, and can be by no other way; only this, any Juſtice may (if he will) in the *Lent*-time, ſearch any Victualling-houſe for fleſh; and if he find any dreſſed or killed, till three days before *Eaſter*, he may (upon his own ſight) give it to the Poor, or to the Priſoners, upon 3 *Car.* 4. 5 *Eliz. Chap.* 5. 1. 2. That by the 5 and 6 *Ed.* 6. *cap.* 3. The Eves of ſome of the Holydays, mentioned in the ſaid Statutes, are to be kept as Faſting-days alſo; but

Lent.
The puniſhment of the offence.
Out of Seſſions.

Within what time it muſt be done.

Before what Juſtice it muſt be done; and the office of the Juſtice herein.

Faſting-days

but no punishment is appointed by this Statute to be inflicted upon the Offender, but only by the Censures of the Church, or Spiritual Judge. This therefore, if it may be any other way, it must be also by the ordinary course of Indictment, Traverse, and Fine, as in the last. In the Sessions.

3. But *quare* here, what Fast is hereby intended, Whether a Religious Fast, to serve God in it, or only a Civil Fast, an abstinence from meat; and herein also it must be observed, as before.

4. That this last Statute was repealed by 1 *Mar. cap.* 2. and by 1 *Jac. cap.* 25. was revived again, to continue and be in force only, untill the end of the first Session of the next Parliament: And not having been by any Parliament, since that time, continued, or revived, otherwise then by the general words of 17 *Car.* 1. it is doubted, Whether it be not discontinued, and at an end. Also, the Statute of 5 *Eliz. cap.* 5. entituled, *Constitutions for the maintainance of the Navy*; being made to continue only for ten years; and from thence, to the end of the next Parliament, then following the end of the said ten years; and then being revived, to continue in force, till the end of the first Session of the next Parliament. And not having been by any Parliament, since that time, continued, nor revived, otherwise then by the general words of 17 *Car.* 1. it is doubted, if it be not discontinued, and at an end. And then the Act of 35 *Eliz. cap.* 7. as to the reviving and continuance of it, the new Additions and Alterations about this thing, having dependance upon it, will be at an end also. But they seem to be continued by the general words of 17 *Car.* 1. And therefore, it will be the wisdom of Justices of Peace howsoever, to be well advised what they do upon it. Observations. Caution to Justices.

SECT. IV.

Of Holydays and Fasting-days.

AND out of the *Canons* of 1603. about these matters, this only is to be known.

No Minister may, without the Bishops leave, appoint a Fast, or special Meeting, under any pretence.

1. That as to the Lords-Day; That by *Can.* 13, all men are required to keep holy the Lord's Day, and other Holy Dayes, according to the Orders of the Church.

Sect. 2.

2. And about Fasts and special Meetings, for Religious uses, this only is to be known; That no Minister may, without Licence, under the Hand and Seal of the Bishop of the place, appoint or keep any Solemn Fast, either publicke, or in any private house, other then such, as by Law are, or shall be by publick Authority appointed, nor shall be wittingly present at any of them, under pain of Suspension, for the first fault; of Excommunication for the second; and Deposition from the Ministery for the third: Nor without such Licence, hold any Meeting for Sermons, Prophecies, or Exercises in Market-Towns, or other places, under the like pain. Nor, without such Licence, attempt, upon any pretence whatsoever, either of Possession, or Obsession, by Fasting and Prayers, to cast out any Devil, or Devils, under pain of Imputation of Imposture, Couzenage, and Deposition from the Ministery, *Can.* 52.

To cast out Devils.

CHAP.

CHAP. XII.

Of Churches, Church-wardens, Chappels, and Church-yards, upon 5 & 6 Ed. 6. cap. 4. *and* 1 *Mar. cap.* 3.

AS to this, these things are to be known from the Laws of the Nation.

1. That Churches, as convenient places for the Meeting of the Congregations and People of God, about the Worship of God, are to be preserved, repaired, and kept clean for that use. *Sect.* 1.

2. That the Minister and People are in these Churches, and about this Work, to be kept in peace, and not disturbed. And therefore, in 5 and *6 Ed. 6. chap.* 4. and 1 *Mar. chap.* 3. all disturbance of Ministers, in their Publick Service of God therein, is to be punished with three Moneths Imprisonment without Bail. But herein it is to be observed by the way, That by the Statute of 1 *Mar. cap.* 3. he is to be so punished also, that shall disturb a Minister saying Mass, or pull down, or break an Altar, or Crucifix, or Cross. And upon this, the Justices of Peace (as we have shewed) have both within, and without their Sessions, some power. For which, see *Chap.* 3. *Sect.* 2.

3. If any do malitiously strike another with a Weapon, or draw his Weapon of purpose to strike another, in any Church, or Church-yard, he is to have one of his Ears cut off, and is, *ipso facto*, excommunicate, by 5 and *6 Ed. 6. cap.* 4. But the Offender is to be indicted and convicted by Traverse or Confession, before the punishment can be inflicted. In the Sessions.

flicted. See *Leonard's Rep. Case* 337. *Cro.* 1. 335.

4. To arrest a Minister going to, or coming from Church, or in, or at the Church, going to, or returning from the Publique Service, is an offence; for which, the Bayliffs may be indicted, or bound to the Good Behaviour. And the offence is not much less, to arrest another man in the Church, and whilest he is at the Publick Service; especially, being such a one as may be easily arrested in another place, at another time, *Cro.* 2. 321. And where it is onely in a Common Case, and at the Suit of a common person; for in case of the King, and upon a Justices Warrant, in case of Felony, and the like, there it may better be done: and if it be on a Week-day, the offence is not so great, as when it is on the Lords-Day.

5. If any do (by words) quarrel or brawl in a Church, or Church-yard, he may be suspended by the Ordinary; the Lay-man, *ab ingressu Ecclesiæ*, the Clergy-man from his Office, by 5 and 6 *Ed.* 6. *cap.* 4.

6. That if any do smite, or lay violent hands upon another, in any Church, or Church-yard, he is excommunicate, *ipso facto*, by 5 & 6 *Ed.* 6. *cap.* 3.

7. That where any one is assaulted or beaten in a Church, it is not lawful to return, or give back any blows, in his own defence, as he may do in another place, *Cro.* 1. 367.

Church-wardens office.

8. That the Church-Wardens Office is, to look to, and govern the Church and Church-yard, keep it repaired and clean; to provide Fonts, Pulpits, Tables, and the like, and preserve the Goods thereof, Books, Communion-Cups, the Ornaments,

ments, and other Furniture thereof, and to all the things therein; and, for that purpose, to rate the Parish for money to do it. For which, see 37 *H.* 6. 30. 11 *H.* 4. 12. 11 *H.* 7. 27. *F. N. B.* 91. 54. 12 *H.* 7. 10. So the Church-wardens are to do many other things in the execution of the Warrants of the Justices; which look for in other Titles.

The Office of the Justice of Peace in this.

9. That the Justices of Peace have now nothing to do with the repair of Churches, or making of Rates to that end; nor with the repair of Chancels, Isles, or Church-yards, or to help a Sexton to his dues, upon 9 *Feb.* 1647. 29 *Aug.* 1644. for these are not binding to us.

10. That Justices may punish in their Sessions, such as keep Markets or Fairs in Churches or Church-yards, upon the Statute of *Winchester*, 1 *Ed.* 3. And so him that draws his Weapon, or shall strike another in a Church, by 5 & 6 *Ed.* 6. 4.

And out of the *Canons* of 1603. as to Churches and Church-yards, this is further to be known.

Sect. 2.

1. That Churches are not to be prophaned, by Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal-Courts, Lay-Juries, Musters, or the like within them; or in the Church-yard; nor the Bells to be rung Superstitiously upon Holy-days, or Eves, abrogated by the Book of Common-Prayer, *Can.* 88.

2. The Church-Wardens are to provide Books, Font, Communion-Table, Pulpit, Chest for Alms, to repair the Church, &c. *Can.* 80. 81, 82, 83, 84.

CHAP.

CHAP. XIII.

Of Laws, and the Canon-Laws in general.

AS to the *Canon*, and *Canon-Laws*, ſome of which we have named to you before; take theſe things further.

Sect. 1. 1. That by the Statute of 25 *H.* 3. *cap.* 19. It was provided, That all the *Canons* then in being, ſhould be ſurveyed by thirty two perſons; and that ſuch of them, as they ſhould find againſt the King's Prerogative, and the Laws of the Nation, ſhould be abrogate. And ſuch as they ſhould find to be according to the Laws of God, and the Realm, ſhould ſtand in their ſtrength, the Kings Aſſent, under his Seal, being firſt had to them. And that no Ordinance, or Conſtitution, Provincial, or Synodal, nor any other *Canons*, ſhould be, after that time, made, put in ure, or executed, without the King's Royal Aſſent and Licence, to make, and execute the ſame, under a great pain. And this ſome underſtand to be the King's Aſſent in Parliament, and affirm this to be the Common-Law. And that no *Canon* may be made in the *Convocation* to bind the Laity, but what is confirmed by Parliament, by aſſent of Lords and Commons, and by the King's Letters Patents alſo. *Bagſhaw* of the *Canons*, *Kelw.* 182. And therefore it is ſaid, that the *Canons* ſurveyed by thirty two Commiſſioners, in the time of *H.* 8. upon the Statutes of 27 *H.* 8. 15. 35 *H.* 8. 16. and 3 *Ed.* 6. 11. are not allowed at this day, becauſe they are not confirmed in *Parliament*.

2. That

Sect. 2.

2. That no *Canon*, *Ordinance*, or *Constitution* of the Clergy, that is contrary to the King's Prerogative, or the Customs, Laws, or Statutes of the Realm, may be put in execution, by authority of the *Convocation* of the Clergy. See 25 *H.* 8. *chap.* 19.

(3.) It is said, That the power of making of Ecclesiastical Laws, doth not rest in the Clergy alone, but in the Parliament, who hath made many Laws about the Clergy; as 9 *H.* 3. *chap.* 1. *Merton*, 20 *H.* 3. *chap.* 9. 25 of *Ed.* 3. *Stat. of Consultation. Carliel*, 35 *Ed.* 1. *Stat. de Circumspecte Agatis*, 13 *Ed.* 1. *Articuli Cleri*, 9 *Ed.* 2. 31 *H.* 8. *chap.* 14. 13 *Eliz.* the confirmation of the 6 *Articles*, 32 *H.* 8. *cap.* 26. and others. And this, in effect, is said by 13 *Car.* 2. That no Ecclesiastical Law, or Canon, not before allowed, confirmed, or enacted by Parliament, *&c.* should be confirmed by that Law.

(4.) That no *Canons* now can be duly and legally made, but by a *Convocation* of the Clergy, duly assembled, by the King's Writ first obtained, or a new Synod derived out of an old *Convocation*. Nor may they, being so made by such a *Convocation*, be put in ure, or execution, after they be made, without the King's Royal Assent be first had to them, and his Licence to execute them, Stat. 25 *H.* 8. *chap.* 19.

(5.) It is to be observed, That the Statute of 17 *Car.* 1. doth forbid the Ecclesiastical Judge, to inflict any Pain, Penalty, Fine, Amerciament, Imprisonment, or other corporal punishment, upon any, for any thing whatsoever, belonging to Ecclesiastical Conusance: The which Statute is since (in part) repealed by 13 *Car.* 2. and thereby it is declared,

declared, That the ordinary power of the Eccleſiaſtical Judge is reſtored, and that he may execute that Eccleſiaſtical Power, and uſe the ſame Cenſures and Coertions he had, and uſed before, 17 *Car.* 1. in Eccleſiaſtical Matters, according to the Eccleſiaſtical Law.

Sect. 3. But it is provided by the ſame New Act of 13 *Car.* 2. That the Clergy may not exerciſe any Eccleſiaſtical Juriſdiction, which they might not (by Law) have uſed before 1639. Nor may they abridge the King of his Prerogative; nor may they impoſe the Oath of *Ex Officio*, or any other Oath, whereby the perſon be charged or compelled to accuſe or purge himſelf of any criminal matter, whereby he may be liable to any cenſure or puniſhment. And it is thereby further declared, That the ſame Law ſhall not enure to confirm the *Canons*, or any of them, made 1640. Nor to confirm any other Eccleſiaſtical Laws or Canons, not formerly confirmed, allowed, or enacted by Parliament, or by the eſtabliſhed Laws of the Land, as they ſtand in 1639. It is therefore to be enquired, if upon all this, any change be made in their Juriſdiction, to make, or execute any of their *Canons*, and what this change is.

(6.) The *Canons* then of 1640. being by this *Act* of 13 *Car.* 2. diſallowed, not made (as it ſeems) by a Legal Authority of the King; nor duly confirmed, but made out of a *Convocation*; and many of them againſt Law, are therefore not now to be made good by the Kings Aſſent. And thoſe *Canons* that were made before the 25 *H.* 8. being to be ſurveyed by the thirty two Commiſſioners, it is ſaid, were not confirmed by the King's Royal Aſſent. And therefore it is held, That neither of theſe

these *Canons* do bind at this day. Nor can any *Canons* bind now, but such as are made and confirmed, as before is set down. And therefore the Ecclesiastical Court cannot claim any Jurisdiction by those *Canons* that are otherwise made. For it is held, That as no *Canons* can be made without the King's Writ, in a *Convocation* duly called. So neither can it be a *Canon*, to bind the Clergy and Laity, but it must be made by the common consent of the Clergy and Laity both. For the power of making of Ecclesiastical Laws, was never in the Bishops and Clergy, but in the King, with the Assent of the Lords and Commons. And it having been (as it is said) solemnly resolved at a Grand Committee, 7 *H.* 8. *Kelw.* 182. That no Ecclesiastical Laws shall bind the Lay-People, but what they assent to. So the Thirty Nine Articles, made 1562. in the *Convocation*, did not bind, till they were confirmed in Parliament, 13 *Eliz.* 12. And that such of our *Canons*, as were not made by the King's Writ in a Convocation; or in a new Synod, derived out of an old Convocation, and have the Kings Assent after, by his Letters Patents, which, some say, must be in Parliament. And therefore it will be safe, in the execution of them, to proceed with good advice. The *Canons* before named, being now looked upon, as of no force and use to us; and those of 1562. new printed 1630. not spoken against by the said Statute, it seems those *Canons* (if any be) many of which we have before cited, are the *Canons* now in force.

But it is without question, that the Ecclesiastical Court hath the same Jurisdiction, as formerly it had, in Causes of Matrimony, and Testament; in Cases of Fornication, Adultery, and other deadly *Sect.* 4.

ly Sins; to impoſe Penance, or ſuch like corporal puniſhment, or to impoſe a pecuniary puniſhment. For not repairing of a Church, or Church-yard, and for not decking of a Church; and for this, to inflict a pecuniary puniſhment only. To give power to the Miniſter, to demand his Oblations and Tythes, due from a Pariſhioner, and Mortuaries where they have been paid, for breach of an Oath, for Defamation, and the like, upon the Statutes of *Circumſpecte Agatis*, made 13 *Ed.* 1. and *Articuli Cleri*, made 9 *Ed.* 2. In theſe things, and upon theſe Laws, the Spiritual Court hath the ſame Juriſdiction as formerly it hath had.

2. That if one Parſon ſue for Tythes of another Parſon, if it be not to the fourth part of the value of his Benefice, this may be determined in this Court.

3. That if a Prelate, or Patron, demand a Penſion out of his Benefice, this may be decied in this Court.

4. That if one lay violent hands upon a Clark, he may for this be puniſhed in this Court.

5. That for ſome kind of Defamations, relief may be had here, as for calling of one Heretick, Schiſmatick, Whore, Bawd, Adulterer, Fornicator, or the like. But the Party ſlandered, cannot ſue for amends in this Court for damages, and yet he may recover coſts of Suit in this Court.

6. The way of Coertion and puniſhment in this Court, is chiefly by Suſpenſion and Excommunication, and the like, *pro ſalute animæ*; for this Court may not fine, nor impriſon, nor force money. And yet the Offender, in this Court, may redeem his Penance, or corporal puniſhment, with money; and with his conſent, ſo to do, the Court may or-

der

der it. And if the Defendant, in this Court, ſhall agree to give a ſum of money, to redeem his Penance, the party may ſue for his money there. And this is a Brief of the Juriſdiction of the Spiritual Court. This Court therefore cannot force men to take Oaths, or to enter into Bonds to obſerve the *Canons*. Nor may this Court now impoſe the Oath *Ex Officio*, or any other Oath, whereby the perſon taking it, may be charged, or compelled to confeſs, accuſe, or purge himſelf of any criminal matter, whereby he may be made liable to cenſure or puniſhment.

7. If this Court ſhall in any thing exceed its Juriſdiction, the party grieved by it, may have his relief in the Courts at *Weſtminſter*, by Prohibition, Injunction, or the like. See for all theſe things, *F. N. B.* 39. 41. *Regiſt.* 36, 37. *Articuli Cleri, & Circumſpecte Agatis. Cook* 4. 20. *Kelu.* 39. 182. 25 *Ed.* 3. *pro Clero. Plond.* 36. Stat. 25 *H.* 8. *chap.* 19. 9 *H.* 3. *chap.* 1. *Merton.* 20 *H.* 3. *chap.* 9. 25 *Ed.* 1. *Conſultation.* 50 *Ed.* 3. 4. *Carliel*, 35 *Ed.* 1. *Kelu.* 182. 31 *H.* 8. *chap.* 14. 32 *H.* 6. 26. 1 *Ed.* 6. *chap.* 1. 2 *Ed.* 6. *chap.* 21. 5 *Ed.* 6. *chap.* 12. See 1 *Eliz. chap.* 1. and 2. 3 *Eliz. chap.* 1. 5 and 6 *Ed.* 6. *chap.* 1. 13 *Eliz. chap.* 12. 13 *Car.* 2. Yet, let me ſay this one word, e're we end this Diſcourſe; That the King having in him the ſole Eccleſiaſtical power, and enabled (by the Common-Law) by Himſelf, to make Orders and Conſtitutions for the Government of the Clergy; as is reſolved, *Cook* 5. 9. and *Croo.* 2. 37. And the King and Clergy, in the time of the ſitting of Parliament, being by Law enabled, to charge the whole Clergy with a Subſidy, by a Law, it ſhould ſeem reaſonable,

That

That the Clergy, with the King's concurrence, in their *Convocation*, in the time of Parliament, may make *Canons*, that (not being againſt the King's Prerogative, nor againſt the Laws of the Nation) may bind the Clergy. But to maintain, they may make *Canons* to bind the Clergy and Laity both, is to give the ſame power to them, which the Parliament it ſelf only hath. See *Cook Inſtit.* 2. Part, of Eccleſiaſtical Courts, 10 *H.* 7. 17. 2 *H.* 6. 13. and other Books. And yet this power in the Clergy, to make *Canons* (it ſeems) is not to be in Articles of Faith; for, if ſo, there had been no need of confirmation of the Thirty Nine Articles, by the *Act* of the 13 of *Eliz.* 12. agreed before in the *Convocation*.

CHAP. XIV.

Of the King and Crown, upon 5 Eliz. chap. 1. *and Pope and Foreign Juriſdiction.*

Biſhop of *Rome.*

FIrſt, No Foreign Perſon may exerciſe any Juriſdiction here in *England*, 1 *Eliz.* 2.

Sect. 1.

2. None may maintain the Juriſdiction of the Biſhop or See of *Rome*; nor may they affirm or maintain the Juriſdiction of any Foreign Prelate or Potentate here in the King's Dominions, in pain to forfeit all his Goods and Chattels; and if he be not worth 20 *li.* he forfeits for the firſt offence all he hath, and is to be impriſoned a year. For the ſecond offence, he is in a *Præmunire*. And the third is High-Treaſon, 1 *Eliz.* 1. 5 *Elizabeth.* And the Juſtices in the Seſſions, *Quorum unus*, may hear and determine this offence, all but Treaſon, upon 5 *Eliz.* 1. And they are to certifie

Certificate.

ſuch

ſuch Preſentments of this offence, as are taken before them, into the *Kings-Beneh*, within forty days after they receive them, if it be in the Term-time; if not, the firſt day of the next Term, in pain of one hundred pounds, upon 5 *Eliz.* 1. 23 *Eliz.* 6.

Agnus Dei, Croſſes, Pictures, &c.

3. If any bring in here any *Agnus Dei*, Croſſes, Pictures, Beads, or ſuch like vain, or ſuperſtitious things; or deliver, or offer the ſame to any perſon to be uſed: he that ſo doth, and he that doth receive it, ſhall incur a *Præmunire*, unleſs the party to whom the tender is made, apprehend the party that tenders it, and carry him before the next Juſtice, or not able ſo to do, doth within three days diſcloſe his name, and the place of his abode; or reſort to the Ordinary, or Juſtice of the County, or having received it, doth with within a day after, deliver it to a Juſtice. And the Juſtice ſo receiving it, within 14 dayes, to diſcloſe it to one of the Privy Council, on pain of a *Præmunire*, upon 13 *Eliz.* 2.

Out of Seſſions.

4. If any obtain, or put in ure, any Bull of Abſolution, or Reconciliation, from the Biſhop of *Rome*, or abſolve, or be abſolved thereby, they and their Acceſſaries before the Fact, are guilty of High-Treaſon, by 13 *Eliz.* 2. And the Comforters and Maintainers hereof, ſhall incur a *Præmunire*, and their Concealers, Miſpriſion of Treaſon, unleſs they diſcover it within ſix weeks to one of the Privy Council, or to one of the Preſidents, or Vice-Preſidents of the Councels in the *North*, or Marches of *Wales*. And no other Miſpriſion of Treaſon is to be in this Caſe, upon 13 *Eliz.* 2. And theſe offences, all but Treaſon, and Miſpriſion of Treaſon, the Juſtices may hear and determine in their Seſſions, upon 23 *Eliz.* 1.

Bull. Biſhop of *Rome*.

Miſpriſion of Treaſon.

High-Treason.

5. If any have, or pretend to have power; or practise to absolve, perswade, or withdraw any from their natural obedience to the King, or for that intent, to with-draw them from the Religion established to the *Romish* Religion, and they who shall be so withdrawn or reconciled, their Procurers and Counsellors, are judged Traytors. And their Ayders and Maintainers, that shall not discover them within 20 days to a Justice, or higher Officer, are guilty of Misprision of Treason. But of these offences, the Justices have not Conusance in or out of Sessions, upon 23 *Eliz.* 1. By 3 *Jac.* 4. It is Treason to absolve, or withdraw any of the Kings Subjects from their natural obedience, to reconcile them to the Pope, or to move them to promise obedience to the See of *Rome*, or other Prince or State. Or to be absolved, withd awn, or reconciled, is High-Treason, unless he return within the Realm, and within six days after before the Bishop, or two Justices of the place whe e he shall arive, submit to the King, and the Law, and take the Oath of Supremacy, and the other Oath in that Statute: which they are to give and certifie at the next general Sessions. But the Justices have not to do with this.

Misprision of Treason.

Supremacy. Oath.

Popish Books.

6. Two Justices, and all Mayors, Bailiffs, and Head-Officers, may search the Houses and Lodgings of Popish Recusants convict, and of every person, whose Wife is a pop sh Recusant, for Popish Books and Reliques, and to burn and deface such as they shall find in their custody. But such as are of value, shall be defaced in open Sessions, and then restored to the Owner, upon 3 *Jac.* 5.

SECT.

SECT. II.

Of Jesuites and Priests, upon 27 Eliz. *Chap.* 2.
And of the Masse, upon 23 Eliz. *Chap.* 1.
And Popish Recusants, upon 39 Eliz. *Chap.* 2.

1. IF any person knowing of a *Jesuite* or *Priest* to remain within any of the Kings Dominions, do not within 12 dayes discover it to some Justice, he is to be fined and imprisoned at the Kings pleasure. Out of Sessions.

2. And the Justice that shall not within 28 days disclose it to some of the Privy Councel, or the President, or Vice-President of the Councels in the North or Marches of *Wales*, shall forfeit 200 Marks. Certificate.

3. And if any Justices shall receive any Oath, Bond, or Submission from any such Jesuite or Priest, upon 27 *Eliz.* 2. are to be certified by them into the *Chancery* within three moneths, upon pain of 100 *li.* upon 27 *Eliz.* 2. But the Justices in their Sessions have no power to do any thing else within or without their Sessions, upon 27 *Eliz.* 2.

4. All *Jesuites* and *Seminary Priests*, brought up beyond Sea, and not yet in Orders by the Jurisdiction of the See of *Rome*, and that shall not within six moneths after Proclamation made in *London* in that behalf, return into the Realm, and within two days of his return before the Bishop, or two *Justices* of the County where they arrive, submit to the King and his Laws, and take the Oath of Supremacy are Traytors, upon 27 *Eliz.* 2. But the Justices cannot in or out of their Sessions, punish this offence.

SECT. III.

Of the Masse, upon 23 Eliz. 1.

And about the Masse, that is to be known.

Sect. 3. 1. That none may say or sing Masse, on pain of 200 marks, and a years Imprisonment, and till the Fine be paid, upon 23 *Eliz.* 1.

2. That none may hear Masse, on pain of a years Imprisonment, and 100 Marks, upon 23 *Eliz.* 1.

3. And these offences, the Justices may in their Sessions hear and determine, upon 23 *Eliz.* 1. And there if the offender shall submit, and conform before Judgment, he is to be discharged.

Out of Sessions. 4. One Justice, within three dayes said a Masse said, may take information of it, 3 *Jac.* 5.

SECT. IV.

Of Recusants, upon 1 *Jac.* 1. 4. 3 *Jac.* 4. 5. 23 *Eliz.* 1. 27 *Eliz.* 2. 29 *Eliz.* 6. 35 *Eliz.* 1. 21 *Jac.* 28.

And for Popish Recusants, this is to be known.

1. That the Recusant that doth conform, is within a year after, and once every year to receive the Sacrament of the Lord's Supper, in pain to lose for the first year twenty pounds; the next forty pounds; and every year after sixty pounds; and so for every years default sixty pounds. And these Forfeitures may be recovered before the Justices,

ſtices, in their Seſſions, upon 3 *Jac.* 4. And the Juſtices may there hear and puniſh theſe Offenders. So the Juſtices are to hear and determine all but Treaſon, upon 23 *Eliz.* 1. *Leonard's Rep. Caſe* 322. upon 35 *Eliz. cap.* 2. All that the Juſtices have to do in their Seſſions, is onely to record the Names of ſuch convict Recuſants, as are ſent in writing to them, under the hands of the Miniſter, Conſtable, and Headborough, upon 35 *Eliz.* 2. and require, and take the Submiſſion ſet down in the Statute, or take, and certifie to the next Aſſize or Gaol-Delivery. See the Abjuration of a Popiſh Recuſant, that ſhall not repair to his place of abode, or depart from thence, contrary to the Statute, *Latches Rep.* 16. *Out of Seſſions.*

2. Upon 3 *Jac.* 5. The names of Popiſh convict Recuſants in *London*, or ten miles of it, are to be brought in to one of the Juſtices amongſt others.

3. Upon the ſame Statute. 4. of the next Juſtices to a Recuſant, under their Hands and Seals, with the aſſent in writing of the Biſhop Lieutenant, or Deputy-Lieutenant, may Licenſe him to go about his buſineſs, and not break the Statute of 35 *Eliz.* 2. *Licence.*

4. The Arms and Munition of a Recuſant, by 3 *Jac.* 5. may by Warrant from four Juſtices made at Seſſions, be taken from him, other then what thoſe Juſtices will allow him, to be kept at the charge of the Recuſant, where the Juſtices ſhall appoint. And if he refuſe to diſcover what Arms he hath, or to deliver it, where it is appointed, he doth forfeit; and for it may, by Warrant from a Juſtice, be committed three moneths without Bail.

5. The Husband will be chargeable for the Recuſancy

cuſancy of his Wife, upon 23 *Eliz. chap.* 1. albeit he himſelf be conformable, *Bulſtr.* 3. Part 87. *Cook* 11. 56. and ſo ſuch a Wife is liable to the twelve pence a day, for not coming to Church, upon 1 *Eliz.* 2. and it may be levyed of his Eſtate.

Husband and Wife.

6. The Church-Wardens and Conſtables of every Pariſh, or one of them, may (or if there be none, the High-Conſtable may) preſent the monthly abſence from Church of Popiſh Recuſants, and their Children, above nine years old, and their Servants, and the age of their Children, as near as they can, in pain of twenty ſhillings for every default: and this Preſentment, the Clerk of the Peace, or Town-Clerk, ſhall record without Fee, in pain of twenty ſhillings. And if he be convicted upon this, he that makes the Preſentment, is to have forty ſhillings, if the Juſtices think fit, to be levyed by Warrant from the Juſtices upon his eſtate, upon 3 *Jac.* 4. And after this Conviction, or by Proclamation, to render himſelf; and for default thereupon, the Offender is to pay twenty pounds a moneth into the Exchequer, in *Eaſter* and *Mich.* Term, or two thirds of his Lands and Leaſes, which the King pleaſe to have. This Conviction is to be certified in the *Exchequer*, before the end of the next Term after it is done, upon 3 *Jac.* 4.

Church-Wardens and Conſtables.

7. If a Recuſant be convict, upon 23 *Eliz.* it ſeems the twenty pounds a moneth to the King is loſt, and not ſaved, by 28 *Eliz.* *Lane's Rep.* 93.

8. The relapſing Recuſant loſeth the benefit he was to have by his Submiſſion, *Bulſtr.* 1. Part, the Lord *Vaux* Caſe, 133, 197. Part 2. 155. *Cro.* 1. 362. *Cro.* 2. 529, 480.

9. If

9. If one be a Fugitive into another County then his own, to evade the Statute against Recusants, by being put upon the Oath, he may be indicted for Recusancy, and the Indictment removed into the *Kings-Bench*, and there make out Process against him in any County of *England*. *Sect. 5.* Recusant, how to be prosecuted.

10. And if such persons keep their House, they may be indicted before the Justices of the Peace, or of the Assizes, and after a *Venire Facias*, &c. by force of a *Capias*, their Houses may be broken up, to take them. Break open houses.

11. If one be indicted for Recusancy, the Court may proceed by Process, upon 23 *Eliz.* or by Proclamation, upon 28 *Eliz.* and the Process for the Indictment for Recusancy, is *Venire Facias*, *Capias*, &c. as in Trespass. And if upon this, he will not open his door, the Sheriff, after request to open it, may break it open, and take him; and if he shall refuse there to take the Oath, he may be indicted in the Sessions, and a general Indictment will serve, when the Sheriff shall bring in a Recusant to the Sessions.

12. But if Justices, out of Sessions, upon refusal to take the Oath before them, commit any person to Gaol without Bail; and mention, in their Warrant, the Tender and Refusal, the Justices of the Peace, or of the Assizes, ought to tender the Oath again, and have a special Indictment. But if the Mittimus do not comprehend any Tender or Refusal, then he may be generally indicted, as upon Refusal in open Court. *Idem.* Out of Sessions. Mittimus. Indictment.

13. That if the Indictment be laid upon the Refusal in open Court, it may be short and general: But if it be laid upon a Commitment, made by two Justices, this is good of any person whatsoever.

ever. But if the *Mittimus* expres the Tender and Refusal, and be special, there must be a special Indictment, That the party was indicted, according to 7 *Jac.* and that he refused before one Justice, or in open Court, *Cook* 12. 130, 131. Resolve of the Judges.

Out of Sessions.

14. One Justice may require a Popish Recusant, within three moneths after his Conviction, to submit and declare his conformity to the Laws of Recusants. And, in case he do not, he may (if it be not a Feme Covert) require him to abjure the Realm: But the Abjuration must be at the Quarter-Sessions, 35 *Eliz.* 1. 21 *Jac.* 28. Yet a Popish Recusant may abjure before two Justices of Peace, by 35 *Eliz.* 2.

Abjuration.

15. But there must be two Justices to require a Popish Recusant (above sixteen years old, which shall travel above five miles from his dwelling without Licence, if he have less then twenty Marks Free-hold *per annum*, or forty pounds in goods) to conform in three moneths, or else abiure, 35 *Eliz.* So to examine one suspected to be a Jesuit or Priest, that refuseth to answer directly, and to commit him to Gaol without Bail, till he do so, 35 *Eliz.* 2. To give an Oath to a Recusant licensed by them, and two others, to travail. And so, and not otherwise, they must be licensed to travel by four Justices, 3 *Jac.* 5. To search the houses of them who are themselves, or whose Wives are Recusants, for Popish Books and Reliques, and burn them; or, if they be of value, deface and restore them. To take the submission, of one reconciled to the [illegible], within six dayes after his return, 3 *Jac.* 4. there must be two, *quorum unus*, to commit to [illegible] a Feme Covert Recusant, not conforming

Pot And Prison

in three moneths, unleſs her Husband will pay twenty pounds a moneth, or the third part of his Lands, 7 *Jac.* 6. 35 *Eliz.* 2. 27 *Eliz.* 1.

Oath.

By 17 *Car.* 2. As to the new Oath there to be taken, *It* is provided, That any two Juſtices may examine upon Oath an offence againſt that Statute, and commit the offender to priſon ſix moneths without Bail, if he refuſe to do what he is required by the Statute.

CHAP. XV.

Of the Peace and good Behaviour.

A Great part of the Office of the Juſtice (as we have before hinted) lyeth in his care, to keep the Peace of the County, both to prevent the breach of it before, and to puniſh it after it is broken. And in order to this end, and for his better enablement herein, and to correct and reſtrain ſuch perſons as are like to break it; he may, in many caſes, require ſuch perſons as are dangerous, and likely to break it, to put in Sureties to keep the Peace, or to be of the Good Behaviour; and, in caſe of refuſal, ſend them to Gaol till they do it. For the knowledge whereof, take theſe things. Firſt, About the Surety of the Peace, and Good Behaviour both. *Sect.* 1.

1. That Peace is ſaid to be a quiet and harmleſs carriage and behaviour towards all people; and the Surety for it, is, the acknowledgment of a Bond to the King, taken by a Judge of Record, for the keeping of this peace. And the good Behaviour is much of the ſame nature; and the Surety, much like

The Peace. Surety for it.

like the Surety for the Peace: But that this is greater then that, and doth comprehend the Surety for the Peace, and much more; and less will break this then will break the other.

About the Peice, take this.

First, That all men are to keep this Peace amongst themselves, and amongst others, and no man may break it; and here every man is to be a Constable amongst others.

Secondly, This Peace is broken, when any thing is done contrary to that quiet, friendly, and harmless Behaviour, required of all men: and this may be done many wayes.

Thirdly, That this is taken by a special Writ from the *Chancery*, or another Court; and sometimes, and most commonly, by their own power, as Justices of the Peace.

In and out of Sessions.

2. The Justices in their Sessions, and any one Justice of Peace out of Sessions may grant this Surety of the Peace. And it is the duty of every Justice, in case where any man shall complain to him, and offer his Oath against another, that he standeth in fear of his life, or some bodily hurt, that he will do to him, or that he will burn his house, (whether it be true or false) is to require it. Or in some cases, he may (perhaps) grant it without Oath. And so, any Justice of his own head, and by his own authority, without any complaint of another, may put any man upon giving Surety of the Peace, that he knows to be a common Ryoter, or common Barretor; or that maketh an affray upon the Justice himself, or upon another in his presence; or that is about to make an affray, or that doth threaten another to beat, or kill him, or burn his House, or go, or ride armed in a terrible way, *&c.*

3. The

3. The Justice having this ground, as before, for the doing of the thing, is thus to do it. He is to send his Warrant to the Constable, or such like Officer of the place where the man dwells, to bring him before him, or some other Justice of Peace of the County, to give Surety for the Peace; and, if he refuse, to carry him to Gaol, till he do so: or, if the party be before him, he may require him, then and there, to do it; and, for refusal, send him to Gaol. *Sect. 2.*

4. And if the party, when he shall come before the Justice, shall refuse to put in Sureties before the Justice that sent his Warrant for him; or before any other Justice, to whom he is brought by the Constable; the same Justice before whom he is, is to send him by a *Mittimus* to Gaol, there to remain, till he do put in Sureties so to do.

5. The number and sufficiency of the Sureties, and the sum in which they are to be bound, is in the discretion of the Justice or Justices that do bind; but commonly there are two Sureties bound with the principal, and the principal is bound in twenty pounds, and the Sureties in ten pounds apiece. And the sum, in reason, may be greater, or less, as the Case is more, or less dangerous. If the Justice see cause for it, he may stand upon 1000 *li.* Bond, and very good Sureties, if the person be a dangerous person, *&c.* *Stile's Rep.* 322.

6. It seems to have been agreed by the Judges, *Cro.* 1. 322. That, in this Case, a Justice may take money, to lye *in deposito*, for the security of the peace; and that if he doth not keep the peace, the money shall be forfeit to the King.

7. Any

Who may; against whom; and for what cause this is grantable, or not. *Sect.* 3.

7. Any one man or woman, that is in fear of danger of harm by another, and will offer his or her Oath in it before any Justice, may have it, against any Lay or Spiritual person, man or woman. The Wife may have it of the Husband, the Husband of the Wife; the Wife to be bound by Sureties not by her self. It may be had for, or against one attainted of Treason, or Felony; for, or against one drunk; for a dumb, and against a man dumb, and not deaf: For, or against an Infant: For, or against a Mad-man. Against, but not for an excommunicate person. And finally, against any person that may have it. And it may be in the Cases, and for the causes before laid down. And in some other Cases, where a man doth go or ride armed in a terrible way, or some such like cases. But for, and after an affray is past, and without any such Oath taken, or cause of suspition of a new affray, it is not safe for a Justice to send this Warrant, or to press the giving of this Surety, or to send to Gaol any man refusing to give Surety; for this power is given him, to be exercised to prevent danger. And when the same is past, some other means is to be used, for the punishment of the breach of the peace therein, *Stile's Rep.* 324.

In or out of Sessions.

Upon a Supplicavit. Out of Sessions.

8. It is said in this case, That a Justice may arrest a man, to find Surety of the Peace, at his discretion; and where he doth so, he may also set him at liberty, without finding Sureties; and, in this case, the Justice cannot be questioned for the Arrest; for in this he is a Judge of Record, 9 *Ed.* 4.

9. This Surety of the Peace, the Justice is sometimes commanded to take by Writ from a higher Court. And thereupon he is to send his Warrant, to bring the party before him, to be bound

bound according to the Writ; and, if he refuse, to send him to Gaol. And, after Sureties taken, he is to grant a *Superſedeas*, to ſtop all other Warrants, and proceedings thereupon, granted by himſelf, or any other Juſtice, to that end. But he need not certifie this, till a *Certiorari* come to require it. *Superſedeas.*

10. And as to the Good Behaviour, and Surety thereof, the Juſtice doth proceed in the ſame manner, in the ſending of his Warrant, to bring the perſon before him, or ſome other Juſtice; The taking of the Recognizance, Sureties, and Sum to the King; and the ſending of him to Gaol by *Mittimus*, as he doth in the requiring of Surety of the Peace. But in this caſe it is alwayes done, either of the Juſtices, by their own diſcretion, and upon their own knowledge; or (which is the uſual way) upon Articles of Accuſation exhibited, or Informations exhibited, and thoſe proved by ſubſtantial Witneſſes. And yet (perhaps) in ſome ſpecial Caſes, a Juſtice may, of his own diſcretion, and without any ſpecial Information, put a man to give this Surety, or ſend him to Gaol. And yet it is held, That the Juſtice may not bind to the good Behaviour, nor commit to Priſon, for refuſal to give Surety, upon a general Accuſation, without ſome particulars, *Paſch.* 23 *Car.* 1. *B. R.* This is grantable, and uſually granted by the Juſtices, againſt the Offenders, and for the offences following, *viz.* Againſt one that is of evil name and fame in general; a dangerous and ſuſpitious perſon; or one that keepeth company with ſuch, eſpecially if he be defamed or detected in one of the particulars following, 34 *Ed.* 3. 1. *viz.* In what Caſes, and for what cauſe this is grantable, or not. *Sect.* 4.

1. One that ſhall deface or break Superſtitious Pictures, in any Window of a Church, without Licence

Licence from the Ordinary so to do, *Cro.* 2. 366, 367.

2. One that is poor, and doth not put himself into Service, according to the Order of the Justices of Peace, *Resol. Judges,* 1633. *Sect.* 37.

3. Bayliffs that shall arrest a Minister on the Sabbath-day, going to, or returning from Church.

4. One that shall abuse an Officer of the Peace (whatsoever he be) in the execution of his Office.

5. One that is a common Breaker of Hedges, or Robber of Orchards, or Wood-stealer, *Dalt. Instit. p.* 173.

6. One that shall make, and raise a false Hue-and-Cry without cause.

7. One that refuseth to watch in his turn, being required by the Officer, *Dalt. Just. Peace* 173.

8. One that is a Thief, Robber, a common Cheater, or Couzener, that gets money by false Tokens, false Dice, counterfeit Letters, or the like.

9. A common Quarreller, Fighter, or Breaker of the Peace.

10. A common Libeller or Slanderer.

11. One that shall endeavour to poyson men, or doth poyson Poultry, Cattel, or other such like Creatures.

12. One that shall lye in wait to rob, maim, or kill men.

13. A Ryoter.

14. One that keepeth, or haunteth Bawdy-houses.

15. One that hath, or is suspected to have a Bastard, a common Evesdropper, a common Night-walker, a common Barretor.

16. One that lives inordinately (having no estate) out of any Calling idly, fareth and goeth well,

well, and no man can tell how he comes by it; especially there, where he cannot give the better account of it to a Justice.

17. One that shall manifest Contempt to Magistrates, and men in Authority; especially if it be in the execution of their Office.

18. One that is a common Messenger for Thieves.

19. One that shall cast down Chamber-pots on men, or meats, of purpose to spoil, or do mischief.

20. One that shall cast mens Gates and Carts into Ponds, and other like Feats, in the Night.

21. One that is acquitted upon a Tryal of a Felony, if he be a person of evil name.

22. One that shall abuse a *Superfedeas* to a wrong end: as where *A.* is bound to keep the peace against *B.* and getteth a *Superfedeas*, and then *B.* releaseth him: And after being arrested for Surety of the Peace at anothers Suit; and then he doth, to discharge himself, make use of this *Superfedeas.*

23. One that shall suborn a Witness of Perjury.

24. One that shall accuse another before a Justice, of any Crime; and, being put to make it good, doth wave it.

25. So one that complains of a Ryot to a Justice, and having drawn him to the place, will not follow it, but deludes him.

26. So one that being appointed by the Justices to take an Apprentice, and upon his Refusal, is bound over to the Sessions, doth there refuse it.

27. So one, that being required by a Justice of Peace, to assist him in the execution of his Office, doth refuse it.

28. So

28. So one that shall sell Ale, contrary to the Order of the Justices.

29. So one, that being a material Witness for the King, doth refuse to give Evidence for him.

30. So one that shall conspire to take away anothers life, and shall endeavour it by Indictment, or the like.

31. So one that shall threaten to beat, or shall beat a Witness, for giving of Evidence against him.

32. So one that hath committed a forcible Entry, or Detainer, Ryot, or the like offence, *Dalt. Just. of Peace*, 34 *Ed.* 3. *chap.* 1. *Cromp. Just. of Peace*, *Cook* 11. 105. *Resol. Judges temp. Car.* 1. *March* 11. *Pl.* 30. *Winches Rep. Case* 4. *Resol. Judges*, 1633. *Sect.* 17.

33. So one that hath been drunk the second time, by 4 *Jac.* 5. 21 *Jac.* 7.

34. So one that reporteth false News, by *Westm.* 1. 34. 2 *R.* 2. 5.

35. So one that is attainted for Felony, and hath his Pardon, by 12 *Ed.* 3. 10.

36. So one that shall disturb and hinder the execution of the Statute against Rogues, by 39 *Eliz.* 4.

37. So one that shall wilfully disturb a Minister in his Sermon, *&c.* upon 1 *Mar. chap.* 3.

38. So one that shall destroy a Fish-pond, steal Fish out of Ponds, Deer out of Parks; or that shall take, or kill Conies in Parks or Warrens; or that shall take Hawks, or their Eggs, out of other mens grounds, by 5 *Eliz.* 21. 3 *Jac.* 12, 13.

39. So a Woman that hath had a Bastard the second time, by 7 *Jac.* 4.

40. So one that hath a Plague-sore upon him, and is commanded by Officers to keep in, and goeth abroad, by 1 *Jac.* 31.

41. So

41. So one that by colour of false Tokens, or false Letters, in other mens names, shall compass to get, or shall get another mans Goods, or Money into his hands, by 33 *H.* 8. 1. But there must be two Justices, *quorum unus*, to do this.

42. So one that shall hinder the execution of the Statute against Rogues, or help to convey away the putative Father of a Bastard-Child.

43. And such as put out such Poor out of their Parish, as ought not to be put out, by 39 *Eliz.* 4.

All these may, by the Justices within, or without their Sessions, be bound to the Good Behaviour. *Sect.* 5. But upon the Ordinances or Acts of 17. *Sep.* 1656. *June* 29, 1654. 17. *Septem.* 1656. there is nothing now for Justices of Peace to do.

All these, and such like, upon proof of the things against them, before any one Justice of Peace, he may (in all the Cases, but what are after excepted) put them to give Sureties for their Good Behaviour, and to appear at the Sessions; and, if they refuse so to do, the Justice may send them to Gaol. But in the Cases following, there must be more then one Justice to do it: As the Disturbers of the Execution of the Statute about Rogues, and the Poor, by 39 *Eliz.* 4. Of them that have the Plague, and obey not the Officers Command, by 1 *Jac.* 31. And of her that hath a Bastard the second time, by 7 *Jac.* 4. These, it is said, must be by two Justices, or in Sessions; yet the Statutes are indefinite, that they shall be bound, *&c.* The Disturbers of Preachers; Stealers and Destroyers of Fish; and such as kill Deer and Conies, are to be bound in the Sessions, and not else-where, by the Statutes of 5 *Eliz.* 21. 3 *Jac.* 12. 13.

One bound to the Peace before the Juſtices, may upon the Oath of the ſame Proſecutor in the Kings Bench, be forced to be bound there. But then he ſhall by *Superſedeas* be diſcharged before the Juſtices. But if it be upon the Oath and Proſecution of another man there, he may not have ſuch a *Superſedeas*: *Moore's* Caſes at large, 131.

CHAP. XVI.

Of Alehouſe-keepers, Inn-keepers, Victuallers, Vintners, and their houſes; and Drunkenneſs and Tipling; Butchers, Breners, Bakers, &c.

AS to theſe things, it is to be known.

1. That an Hoſtler, or Inne-holder, is not to make Horſe-bread within, or without his houſe; but Bakers are to make it, and to obſerve the Aſſize in it, after the price of the Markets adjoyning. And the Hoſtlers and Inn-holders are to ſell their Horſe-bread, and their Hay, Oats, Peaſe, Beans, Provender, and all kinds of Victuals for Man and Beaſts at a reaſonable gain, having reſpect to the prices at which they are ſold in the Markets adjoyning, without taking of any thing for Litter. And yet if he live in a place that is a Thorow-fare, (no City, Corporate or Market-Town, wherein there is a common Baker, that hath been ſeven years Apprentice to the Trade) he may make his own Horſe-bread, ſo it be of due Aſſize, and after the prices of Corn, 21 *Jac.* 21. And he that offends herein, in any particular, is for the firſt Offence to be fined. For the ſecond offence, to ſuffer a Moneths Impriſonment without Bail. For

the

the third offence, to be ſet on the Pillory. And for the fourth offence, to be fore-judged for ever, not to keep an Inne again. And this the Juſtices (in their Seſſions) may do. But upon 32 *H.* 8. 41. 12 *Edw.* 2. 6. 23 *Ed.* 3. 6. 31 *Ed.* 3. 10. 6 *R.* 2. Statute 1, 9, 10. 12 *Ed.* 4. 8. 25 *H.* 8. 2. about Victuallers, the Juſtices of the Peace have nothing to do within, or without their Seſſions. Nor have they to do with 23 *H.* 8. 4. but to ſet down the prices of Ale and Beer. And the Statute of 33 *H.* 8. 10. doth not give Juſtices power to enquire upon 23 *H.* 8. For the words [*Victuals* and *Victuallers*] there, are to be underſtood of Alehouſe-keepers, who ſell by Retail, and keep not the Aſſize: and theſe the Juſtices may puniſh. In the Seſſions.

2. Victuallers are to ſell their Victuals at ſuch reaſonable prices, as ſhall be ſet down by the Juſtices of Peace, at their two Quarter-Seſſions, to be kept between *Eaſter* and *Michaelmas*, in pain to be puniſhed, at the diſcretion of the Juſtices, where no pain is before ſet down; and not to diſpenſe with any bodily puniſhment, 13 *R.* 2. 8. In the Seſſions.

3. The Juſtices are twice a year to cauſe all the Statutes concerning Victuallers to be proclaimed, 23 *H.* 6. 13. In the Seſſions.

4. Butchers, Brewers, Bakers, Poulterers, Cooks, Coſter-Mongers, or Fruiterers, are not to conſpire or agree, not to ſell their Victual, but at certain prices, in pain of ten pounds, for the firſt offence: And this not paid in ſix dayes after Conviction, twenty dayes Impriſonment; and, in this time, to have nothing but Bread and Water. For the ſecond offence, twenty pounds; and, this not paid in ſix dayes, the Pillory. And for the third of-

fence, forty pounds; and, this not paid within that time, the Pillory, and the loſs of one of his ears, and to be ever after infamous. And this the Juſtices of Peace, in their Seſſions, may hear and determine, 2 and 3 *Ed.* 6. 15.

In the Seſſions.

In the Seſſions.

5. The Juſtices have alſo power to hear and determine any offence, upon 1 and 2 *Phil.* and *Mar.* 5. about Tranſportation of Beer, Butter, Cheeſe, Herring, or Wood: But as to the Tranſportion of Corn, ſee 13 *Eliz.* 13. 1 *Jac.* 25. 21 *Jac.* 28. and 3 *Car.* 4.

6. Victuallers, Alehouſe-keepers, and ſuch like Tradeſmen, may buy and ſell again in their houſes by way of Retail, and not be under the penalty of the Laws made againſt Eore-ſtalling, *&c.* 5 *Ed.* 6. 14. 13 *Eliz.* 25.

Fore-ſtalling, &c.

And as to Inns, and Ale-houſes, take theſe things.

Sect. 2.

1. That any one that will, may erect and keep an Inne for the entertainment of Strangers only, without any Licence from the Juſtices of Peace. But if an Inne-keeper will ſell Ale, Beer, or Cyder, by Retail, in his houſe; or will entertain others, beſides Strangers, in any caſe; there to be drinking, or eating for money. In this Caſe, he muſt have a Licence from the Juſtices, *Reſol. of the Judges,* 22 *Jac. Hutton's Rep.* 99.

Out of Seſſions.

2. That Juſtices of Peace, may not within, or without their Seſſions, put down an Inne, or diſcharge an Inne-keeper from ſelling of Ale, Beer, *&c.* although the man be unfit, the place inconvenient, or he keep diſorder: But he and his houſe may be ſuppreſſed, by way of Indictment againſt it, as a common Nuſance, at the Aſſizes, or Seſſions. And if an Indictment be againſt ſuch a man

In and out of Seſſions.

Common Nuſance.

for

for diſorder only, the Judgment is to be, to diſable him onely as to that Inne: But another man may keep it as an Inne ſtill, *Hutton's Rep.* 100.

In and out of Seſſions.

3. The Juſtices may (at their pleaſure) ſtint the number of Ale-houſes; but they may not ſtint the number of Inns. Nor is there any way ſo likely, to ſuppreſs, or reſtrain the Inns, as to hold them to the ſtrict obſervance of the Laws for Aſſize, and about Tipling made, 1 *Jac.* 9. 4 *Jac.* 4. 1 *Car.* 14.

4. No diſability may be of an Inn-keeper for three years, upon 21 *Jac.* 1. as may be of an Ale-houſe-keeper.

Licence granted.

5. None may keep an Alehouſe, or ſell Ale, Beer, Perry, or Cider, without Licence granted, either in Seſſions, or by two Juſtices, *quorum unus*, in pain of three days Impriſonment without Bail; and then he is not to be ſet free, till he, with two Sureties, hath entred into a Recognizance, that he ſhall do ſo no more, 5 and 6 *Ed.* 6. 25. But they may ſell in Towns, where Fairs are kept, during the Fair-time.

In and out of Seſſions.

6. The Quarter-Seſſions, or two Juſtices, *quorum unus*, may put down Ale-houſes at their diſcretion, and take Recognizance, with Surety, of them that are Licenſed, that they ſhall not uſe unlawful Games, or other diſorder in their houſes. And, for this Recognizance, there ſhall be but twelve pence paid. And this the two Juſtices are to certifie to the next Seſſions, in pain of five Marks. And the Juſtices may, upon breach of this Recognizance, ſend out Proceſs, and hear and determine it, 5 and 6 *Ed.* 6. 25.

7. None may keep an Ale-houſe (but in a Town at the Fair-time) without Licence, in pain, for the firſt offence, of twenty ſhillings to the

Poor; which the Conſtables and Church-wardens (by warrant from the Juſtice, before whom the offence is proved) may levy by diſtreſs; and, not paid in three days, may be ſold to ſatisfie the penalty: And the party not having to ſatisfie, the ſame Juſtice may (by his Warrant) commit him to the Conſtable to be whipt: and if the Conſtable do not execute it, he is to be impriſoned without Bail, or pay forty ſhillings to the uſe of the Poor. And here the View of one Juſtice, Confeſſion of the party, or Proof of one Witneſs, will be a ſufficient Conviction. For the ſecond offence, to be committed to the Houſe of Correction for a moneth: And, for the third offence, till he be from thence diſcharged by order of Seſſions. But he that is to be puniſhed upon 5 and *6 Ed.* 6. 25. is not to be puniſhed upon this Statute. And ſo *e converſo*, the Juſtices (as it ſeems) may do no more within, than they can do without the Seſſions, on this Statute.

In or out of Seſſions.

Tipling ſuffered. *Sect.* 3.

8. That no Inn-keeper, Victualler, Vintner, or Alehouſe-keeper, may ſuffer any Town-dweller, or any other perſon whatſoever, to ſit tipling in his houſe, in pain of ten ſhillings, to the uſe of the Poor; the Offender to be convicted by the view of the Juſtice, proof of one witneſs upon Oath, which one Juſtice may adminiſter; or his own Confeſſion is a ſufficient Conviction. This is to be levyed by the Conſtables or Church-wardens of the place, where the offence is done, of their own authority, without Warrant; the Juſtice is only to give notice of the Conviction to them, and they are to diſtrain for it, and after ſix dayes, ſell the diſtreſs to pay it: and, for lack of diſtreſs, he is to be impriſoned, till he pay the penalty, 1 *Jac.* 9.

In and out of Seſſions.

9. 4 *Jac.* 5. 21 *Jac.* 7. And the Oath of the party, confeſſing he hath been Tipling, or drunk in an Ale-houſe, ſhall be ſufficient, to convince the Alehouſe-keeper of this offence, by ſuffering Tipling, &c. 21 *Jac.* 7.

Leſs then meaſure.

9. No Inn-keeper, Victualler, or Alehouſe-keeper, may ſell leſs then a full Ale-quart of the beſt Ale or Beer, or two quarts of the ſmall, for one peny, in pain of twenty ſhillings to the Poor. In this, the view of one Juſtice, or proof of one witneſs upon Oath, before one Juſtice, is a good Conviction of this offence. And this is to be levyed, and the Conſtables, or Church-wardens, and Juſtice, are to proceed in the levy of it, as they are to do in the laſt, for the penalty for Tipling. And if in either of theſe Caſes, the Officer ſhall neglect to levy the money, or to certifie lack of diſtreſſe within 20 dayes, he forfeits 40 *s.* The Officers, in both Caſes, to be accountable to their Succeſſors. So that in both theſe Caſes, the Juſtice, or any one Juſtice, is, upon his own ſight of the offence, the Confeſſion of the Offender, or the proof thereof, by the Oath of one witneſs, which he may adminiſter, convict the Offender of his offence; and, after his Conviction, he is to give notice of it to the Conſtables or Church-wardens of the place, and call upon them, to do their office therein, which is to levy the penalty upon the Offenders Goods, by way of diſtreſs, and ſale of his Goods, after ſix days, rendring the overplus: And if not paid, or there be no diſtreſs to be had, the Conſtables, or Church-wardens, that had the notice, are to certifie the ſame unto the Juſtice of Peace: and thereupon he is to ſend his Warrant to commit the Offender to Gaol, till he pay the

In or out o Sedions.

forfeiture. And also to give him notice, that he is disabled for three years to keep any Ale-house again. And if these Officers do not levy the money, nor certifie the lack of distress, nor non-payment, within 20 dayes, to the Justice; the Statute is, That the Justice of Peace by Warrant under his Hand and Seal, shall levy 40 *s.* penalty upon them, by way of distress of Goods, to be prized and sold after six days; and, for want thereof, the Officer to be sent to Gaol till payment. But there is no way set down, how the Constable or Church-warden may be convicted of the offence. But there is a power of *Oyer* and *Terminer*, of the offence given to the Justices, by the *Act* of 4 *Jac.* 5. Therefore it is not safe for any Justice to give forth a Warrant out of the Sessions, in this Case, to levy the penalty upon them, but to let it be done by the Sessions. Nor are the Justices here to send their Warrant, to levy the 10 *s.* of the offender for Tipling, or the 20 *s.* for selling less then measure; for the Constables and Church-wardens are, by their Offices, to do it without Warrant. And yet it may seem reasonable, that the Justices send them a Warrant, and thereby require them to execute their Offices herein, 1 *Jac.* 9. 21 *Jac.* 7. 1 *Car.* 14. 3 *Car.* 13. And, for their neglect, they may be punished in Sessions, by the Common Law, by Fine, *&c.*

Officers neglect.

Caveat to Justices.

10. That none may sell Ale or Beer to an unlicensed Alehouse-keeper, save only for the expence of his household, in pain of six shillings eight pence for every Barrel; and so more, or less, according to the proportion: To be prosecuted in the Quarter-Sessions; and the forfeiture to be divided between the Prosecutor and the Poor, *&c.*

Sale of Beer.

In the Sessions.

11. That an Alehouſe-keeper lawfully convicted of any of the offences aforeſaid, forbidden by 1 *Jac.* 9. and 4 *Jac.* 5. ſhall be diſabled to keep an Alehouſe within three years after, 7 *Jac.* 10. But it is not ſo with an Inn-keeper, 21 *Jac.* 7. Alehouſe keeper diſabled. *Sect.* 4.

12. *Vintners* that keep Inns and Victualling-houſes, are to be bound by the Statutes of 1 *Car.* 14. 1 *Jac.* 9. 4 *Jac.* 1. as to the offence of Tipling, and the other offences named in the Statutes. But the other Statutes made againſt *Alehouſe-keepers*, do not bind *Vintners* or *Inn-keepers*, unleſs they be named in the Statute. And therefore they are not taken to be included within 5 & 6 *Ed.* 6. 25 See 1 *Car.* 4. Vintners.

13. That if a Townſman, or Stranger, ſhall be in any ſuch common houſe tipling, (and not invited by a Traveller, and during the Travellers ſtay there only); In this Caſe, any one Juſtice of Peace, may upon his own view thereof, the confeſſion of the party, or proof of one Witneſs upon Oath, ſend his Warrant to the Conſtables of the place where, *&c.* to levy of the offenders Goods to the uſe of the poor 3 *s.* 4 *d.* by way of diſtreſs and ſale, rendring, *&c.* And for want of diſtreſs, to ſet him in the Stocks for four hours, and to give the Inn-keeper notice, that he is diſabled for three years, 4 *Jac.* 5. 21 *Jac.* 7. But Labourers that are there for the conveniency of their work; or one that is there for cauſe to be allowed by two Juſtices of Peace, are not to be reckoned offenders within this Statute. Tipling uſed. Out of Seſſions.

14. For him that is drunk: In this caſe, for the puniſhment of him, any one Juſtice of Peace may, upon his own view of it, or the offenders confeſſion thereof, or the Oath of one Witneſs, convict Drunkenneſs. *Sect.* 5.

viſt him. And for the firſt offence, he is within a week after the Conviction, to ſend his Warrant to the Conſtable of the place where, *&c.* to levy of the offenders Goods, to the uſe of the poor, 5 *s.* by way of diſtreſs of Goods, and ſale thereof within a week, if the money be not paid. And for lack of diſtreſs, to put the Offender in the Stocks ſix hours. And albeit, there be not in the Act an expreſs power given to the Juſtice, or any other to do this; yet it is conceived, that the Juſtice may ſafely do it, by the Preſident made for that purpoſe in my Clarks Cabinet. For the words of 4 *Jac.* 5. are, *That if the offender lack a Diſtreſs, he ſhall be committed to the Stocks ſix hours*; but it doth not ſay, The Juſtice ſhall commit him to the Stocks, or that he ſhall ſend his Warrant to do it, But this (as it is conceived) muſt neceſſarily be underſtood. For the *Act* of 21 *Jac.* 7. hath theſe words, That one Juſtice may convict him, and the offender ſhall be puniſhed, as in the Statute is appointed. And if it be the Alehouſe-keeper that is drunk, the Juſtice is to give him notice, that he is diſabled for three years to keep an Alehouſe again. And for the ſecond offence of drunkenneſs, the Juſtice is to put him to give two Sureties in a Recogniſance of 10 *li.* to be of the good Behaviour. And here the Officer is to be puniſhed for his neglect 10 *s.* to be levied as the penalties upon 1 *Jac.* 9. But no way of Conviction is ſet down, except it be by the parties own Confeſſion upon the general words of 21 *Jac.* 7. in the beginning thereof. And therefore this being doubtful, it is not ſafe for the Juſtice to do it without, but to have it done within the Seſſions,

In or out of the Seſſions.

Caveat to Juſtices.

4 *Jac.* 5.

15. No

15. No Juſtice is to puniſh any man for this offence of drunkenneſs, after ſix moneths is paſt after the offence is committed, 4 *Jac.* 5.

16. A man may be convicted of this offence before the Judges or Juſtices of the Seſſions, 4 *Jac.* 5.

17. This *Act* is not to reſtrain Eccleſiaſtical Juriſdiction; none may be twice puniſhed for one offence.

18. All Conſtables, Church-wardens, Headboroughs, Tything-men, Ale-cunners, and Sidemen are to be charged in their Oaths, to preſent the offences of 4 *Jac.* 5. 1 *Jac.* 9.

19. By all which we may obſerve, there muſt be two Juſtices, *quorum unus*, to give Licenſe to any man out of Seſſions, to ſell Ale, Beer, Cyder, or Perry, and to take his Recogniſance, by 5 & 6 *Ed.* 6. 25. So there muſt be two Juſtices to licenſe a Labourer or other perſon, to be in an Alehouſe tipling, upon 1 *Jac.* 9. So there muſt be two Juſtices *quorum unus*, to diſcharge, or put down an Alehouſe-keeper, upon 4 & 5 *Ed.* 6. 25. Out of Seſſions.

CHAP. XVII.

Of the poor, and upon 43 Eliz. *chap.* 2. 39 Eliz. 17. 1 *Jac.* 17. 14 *Car.* 2.

AS to the Poor, theſe things are firſt to be premiſed. *Sect.* 1.

1. There are two ſorts of poor. Such as are impotent, indigent, and poor indeed. And theſe are of two ſorts alſo. Such as have been Souldiers or Mariners, and alive, or the Wives and Children of

of such dead; and for all these, the Law doth take that they may be relieved; or they are such as are able to work, and are idle, and roguish. And for all these, the Law doth take care to punish them. And of the first sort in order to their relief, the Law doth take care of two things. (1) To settle them in the place where they ought to have relief. (2) That they be provided for in those places where they are setled. And in order to this, there is something to be done by Officers of the Parish, appointed of purpose to look to them. (3) Something to be done by the Justices of the Peace of the County wherein they live. (4) Something by every Inhabitant of the place. (5) And something of themselves.

Who are the poor to be relieved or not.

2. The poor that are to be provided for, are such as are so by impotency, as the person visited with sickness, and thereby for the time disabled to work, the person naturally disabled in Wit or Member, as the Ideot, Lunatick, Blind, Lame, *&c.* and the aged, decrepit persons that are past labour, or such as are so by casualty, as the poor man overcharged with Children, or he that is decayed by Fire, Robbery, or Suretiship, or the like; or he that is casually maimed in his Calling, as the Souldier, Husbandman, *&c.* and these onely are to be cared for by the Overseers of the poor, for Work-Houses, *&c. Resol.* Judges, *temp.* Q. *Eliz.* Sect. 6. 1633. And not the thriftless poor, such as spend all at play, drink, *&c.* the dissolute person, as a Strumpet, Pilferer, *&c.* the sloathful person, that doth refuse to work, or wilfully spoil or imbezil his work: the Vagabond, that will abide in no Service or place: such as will work, but not for the wages appointed. For these, and such like, the Church-wardens and

Overseers

Overſeers are not to take any care of them, if they have able bodies, and be in health, but to ſee that they be put to work; and if they refuſe, that they be puniſhed. Nor are they to take care for Houſes, or other Relief for ſuch as are able to work, and have, or may have work: nor yet for their Children; for the Parents are to maintain themſelves and their Children by their work. But if they be over-burdened with Children, they may have help. Nor Rogues which are to be ſent away.

Who may beg, and where.

3. No poor may beg, but in their own Pariſh; and there by Licenſe of the Overſeers of the poor, *Reſol.* Judges. And the Overſeers may not licenſe any of their poor to beg in any other place, but in their own Pariſh. Nor may they licenſe them to beg there in the High-wayes, *Reſol.* of the Judges 1633. And without the Licenſe of the Overſeers, they may not beg any where.

4. As to that which is to be done by Church-wardens and Overſeers of the poor, and their Office, theſe things are to be known.

Church-wardens and Overſeers of the poor. And their Office, How choſen. *Sect.* 2.

1. That the Overſeers of the poor of a Pariſh, are Officers yearly appointed within it, for the overſight and ordering of them. And they are choſen or made by two or more of the Juſtices, *Quorum unus*, dwelling in or near the Pariſh, under their Hands or Seals, to be joyned with the Church-wardens, to look to the poor of the place. And herein the Church-wardens of the place have an equal power, and charge with the Overſeers; and therefore the common neglect of the *Church-wardens* herein, who in moſt places meddle not at all in it, is to be puniſhed. But if there be but one *Church-warden* in the place, he and the Overſeers together may execute the Office, by 43 *Eliz.*

cap.

cap. 2. And the major part of these Officers without the rest of them, may do any thing belonging to their Office. But they are to have the allowance and consent, either in particular, or in general, of two Justices of Peace, *quorum unus*, to every thing they do about their Office.

2. The Inhabitants of the Townships within the great Parishes of *Lancashire*, *Cheshire*, *Derbishire*, *Yorkshire*, *Northumberland*, the Bishoprick of *Durham*, *Cumberland* and *Westmerland*, are to take care for the poor of the Townships only, and yearly to choose Officers for the poor for that place, and these Officers shall have the same power in the place, for relief of their poor, and forfeit the like penalties, as such like Officers of entire Parishes, by 14 *Car.* 2.

Their Duty and Power.

3. The Office of these Officers in general, is to relieve the impotent poor, set them to work that can work, and have work, help them to Houses, and to work that want it; place abroad the Children of such as have more then they can well maintain. And for this end, to raise a stock of money by a general Rate upon the Parish, by 43 *Eliz.* chap. 2. But to most of the things they are to do in their Office, they must have the consent of two of the same Justices, 2 *Car.* 1. chap. 4.

4. If any stranger come into the Parish, into any Tenement under the yearly value of 10 *li.* they may require sufficient Security of him, for the discharge of the Parish; and if he refuse, complain to the Justices, who may order him to do it. But the complaint must be within forty dayes, or it will be too late, upon 14 *Car.* 2.

5. They are to take care for none but the impotent, the rest must set themselves to work. And so

so for Houses; when they are without, they must provide for themselves, and when out of one Service, they must get into another.

6. That where the putative Father, or Mother of a Bastard-child, shall run out of a Parish, or County, and leave their Children upon the charge of the Parish, having Estates sufficient to discharge the Parish, there the Church-wardens and Overseers of the poor of the place where the Child is born, may seise so much of the Goods and Cattel, or Rents of his other Lands for the discharge of the Parish, and bringing up, and providing for the Child, as any two Justices shall order, and thereupon the Sessions is to dispose, and sell the Goods and Cattel. And the Sessions may order the Officers aforesaid, what they shall receive of his Rents and Lands also, for the purposes aforesaid, 14 *Car.* 2.

7. They may with the consent of two Justices *quorum unus*, where two Justices be within their limits, and where there is but one Justice, with the consent of that one Justice, set up, and use a Trade, for the better setting of the poor to work, 43 *Eliz.* 2. 3 *Car.* chap. 4. *Sect. 3.*

8. All such as are sent to them, and lawfully setled amongst them (for which see Sect. 5. afterwards) The truly poor, such as are before described: all these not having sufficient means to maintain themselves, are to be maintained by the Parish; or if they can work, by their work, and the help of the Parish. And such as cannot work, are to be relieved by them at the Parish charge, or to supply them with what by their work they cannot do. And if they have not work, these Officers must provide work for them, and so Houses for them, if they want

Work to be provided.

Houses to be provided.

want Houſes. But they that are able to work, muſt work, and the Overſeers are not bound to take care of them. *Reſol.* Juſtices, *temp. Eliz.* Sect. 6. And they are to ſet to work the Children of ſuch Parents, as by them ſhall be judged unable to keep and maintain their Children; and ſuch perſons married and unmarried, as having no means to maintain themſelves, uſe no ordinary and daily Trade of life; and all thoſe that cannot get work elſewhere, by 43 *Eliz.* chap. 2. All theſe they are to ſet to work. And if any ſuch refuſe to work, to complain to the Juſtices of them. But more particularly, as to their Office in this, it is to be known.

About the making of Rates.

1. That theſe Officers (for the doing of their work) may raiſe weekly, or otherwiſe by taxation of every Parſon, Vicar, and other Occupier of Land, Houſe, or Tythes, or ſaleable underwoods within the Pariſh, ſuch a ſum as they ſhall think fit, by 43 *Eliz.* chap. 2. And this they muſt have allowed and confirmed under the hands of two Juſtices, *quorum unus.* And then by warrant from the ſame, or (as it ſeems) any two others (*quorum unus*) Juſtices they may levy by diſtreſs and ſale of Goods, rendring the over-plus. And in default of diſtreſs, two of the Juſtices may commit the party to priſon without Bail, till he pay it, upon 43 *Eliz.* chap. 2.

How Rates are to be made.

2. And for the making of this Rate, the which Rate is for the moſt part, the Rule of the making of other Rates, take theſe things:

1. That the Rates of the Overſeers of the poor, and Church-wardens muſt be well and duly made, according to mens viſible Eſtates, real and perſonal, within the Pariſh only, and not for any other Eſtate elſewhere. 2. That

2. That a Parish in Reputation, shall be a Parish within this Law. So that if *A.* be an ancient Parish that hath Officers in it, and *B.* a Town within this Parish, which for a long time hath been used, and reputed as a Parish, and hath all Parochial Rights, Church-wardens, *&c.* this place may be rated as formerly it hath been rated, *Hutton, Rep.* 93. *Cro.* 1. part 286. 65.

3. That it must be set upon the Tenants and Occupiers of Lands within the Parishes, and not upon their Landlords living within, or without the Parish, *Resol. Judges* 1633. Quest. 14. by the Judges of Assize at *Lincoln. Bulst.* 1. 354.

4. That the Parson having a full tenth part of the profits of the place, he may be rated to a tenth part, *Resol. Judges* 1633. Sect. 32.

5. He that doth occupy Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land therein, only according to the proportion thereof, and no more. But for his personal Estate, it seems reasonable he should be charged for this in the place where his person is.

6. The Farmer is to be charged for the Land he hath in Lease, and not the Landlord for the Rent he receiveth; for the Tenant is chargeable for the whole Land. And if the Landlord and Tenant both live in the Parish, the Tenant only is to be charged, *Resol. Judges, & Lincoln, 9 Car.* 1.

7. Every mans Land must be rated to this, and all other Rates, according to the quality, and yearly value, or by the pound; and not according to the quantity, and content, as a yard, half-yard, or the like. *Sect. 4.*

8. Ancient Demesne Land, Guild-able, and Copy-Land, are all to be charged to these Rates.

9. A man may be rated to the poor, albeit he have no Land in the Parish.

10. Every Inhabitant, Parson, Vicar, and other; and every Occupier of Lands, Houses, Tythes, Propriations of Tythes, Cole-mines, and saleable Underwoods, is to be rated.

11. By saleable Underwoods, are not meant Timber, but any Wood for fire, albeit it be not cut in 30 or 40 years, as the Beech-Wood of many Counties.

Woods.

12. These Woods are to be proportioned to a yearly benefit, so that a man, if he have 100 Acres in a Parish, it must be cast what it will yield yearly to continue, and according to that it must be rated. So Mines are to be considered, Shops, Salt-pits, Sheds, profits of Fairs, and things which are real, and a yearly Revenue, what profit they bring in clearly every year, and accordingly they are to be rated.

Sect. 5. Personal Estate.

13. Mens Lands are first to be rated, and then some respect is to be had, but with much caution to mens other visible ability of Stock of Cattel, Corn or Grain, upon their Land, or of Goods: as Household-stuffe, Cloth, or other Merchandizes, Malt, or the like in his House. For that a man hath a House bravely furnished, and 100 l. a year Land to it fully stockt, and hath 1000 l. in Cloth, Malt, or the like in his hands, to pay no more then he that hath a House, with bare Walls, and 100 l. a year, with scarce any stock upon it, seems most unreasonable. But for mens invisible Estate of

Money.

money, &c. in respect of the incertainty thereof, no Rate may be set upon it. And so it hath been resolved by the Judges, 5 *Car.* 1. And yet if a man be known notoriously to have an Annuity of 100 l. a year coming in to him, or 1000 l. lying in such a mans hand, for which he receives Interest,

and

and perhaps it is all his Eſtate: it ſeems conſiderable, why in ſo clear a Caſe he may not be rated proportionably for it.

14. The Rate for Stock or Goods, it is thought reaſonable, it be ſet after the proportion of Land (*viz.*) That 100 l. in Stock, be rated after 5 l. or 6 l. a year in Land.

15. In the making of Rates, reſpect is to be had not only to a mans ability, but alſo to the advantage he hath by the thing for which he is rated.

16. In ſome ſpecial Caſe, a man may be rated beyond his ability: as where one brings a charge upon a Pariſh; or under any pretence, brings in a man that may be chargeable in a Pariſh, he may, if there be cauſe for this, be raiſed in his Rate, to the full value of his Eſtate, *Reſol. Judges.*

17. They may, if there be cauſe, put a ſpecial and extraordinary Rate upon any man, to help to place a poor mans Child Apprentice; But no Relief can be had in theſe Caſes, but in the Quarter-Seſſions, and when the Juſtices ſhall rightly underſtand the Caſe, they will give Relief.

18. And in theſe Caſes where a ſpecial Rate is put upon any man, as to help to bind an Apprentice, or the like, it may be levied as other Rates are levied, *Reſol.* Judges, *Cro.* 2. part, 354. Special Rate.

19. At *Lincoln* Aſſizes, 9 *Car.* 1. 19. The two Judges, *Hutton* and *Crook* Reſolved, That Rates ought to be made according to the viſible Eſtate real and perſonal, of the Inhabitants of the place, and not for what Eſtate he hath in other Pariſhes.

(2) This Rate ſo made (as is ſaid) muſt be confirmed under the hands of two Juſtices *Quot non ſunt.* And it ſeems not neceſſary (as ſome would have it, that it be done by the two Juſtices that

appointed the Overseers; but it may be done by any two other Justices *quorum unus.*

Sect. 6. (3) If the Parishioners pay not their Rate, the *Church-wardens* and *Overseers* may levy it by distress, and sale of their Goods, by a *Warrant* from two Justices *quorum unus*, and for want of distress, such Justices may send him to Gaol, till he pay it, upon 43 *Eliz.* chap. 2.

(4) These Officers also (to help them in the execution of their Office) are to have the Forfeitures upon divers Statutes, for divers offences imposed on divers offenders: as upon the Statutes against *Alehouse-keepers* and *Tiplers*, about the sale of Tenters, default of *Clothiers*, eating flesh in Lent in a Victualling-house; for the taking of *Partridges*, profaning of Gods day, or Name; about the Poor and Rogues.

Monethly Meeting. (5) The Officers are to meet every moneth in their Parish-Church, after Evening-Prayer, except they have some reasonable excuse for it to be allowed by a Justice of Peace to order the matter of their Office.

Forfeiture. (6) And for every failer herein, or in any other part of the Duty of their Office, they forfeit 20 *s.* upon 43 *Eliz.* chap. 2.

(7) They are also to give an accompt, *i. e.* They are within four dayes of the end of their year, and after others are appointed to succeed them, to give an accompt to two Justices *quorum unus*, of these things. 1. What they have received; or rated, and not received. 2. What Stock in their hands, or in the hands of any of the poor. 3. What Apprentices they have bound. 4. What poor they have set on work. 5. Whom they have suffered to wander. 6. Whether they have met monethly.

ly. 7. How they made and levied their Rates. 8. How they have executed the Justices Warrants. And the money in their hands they are to deliver over to their Successors in their Office, Or they forfeit 20 *s.* which may be levied by Warrant from two such Justices, to the Church-wardens and Overseers.

(8) The Church-wardens and Overseers also may (to make a provision for a poor man that wants a house) but not for a common Heardsman or Shepheard (with consent of the Lord of a Mannor, first had in Writing under his Hand and Seal) either of themselves, or with a Sessions-Order, erect a Cottage upon any part of the waste of the Mannor, and lodge Inmates therein, notwithstanding the Statute of 39 *Eliz.* But this Cottage may not be afterwards imployed, otherwise then to lodge impotent persons there; for if it be, then it will fall within the penalty of that *Act* 39 *Eliz. Resol. Judges* 1633. Erect a Cottage.

(9) They are to place Apprentices, the Children of such Parents they judge unable to bear the charge of them; but not other mens Children. And they to whom they are placed, must receive them. But as to the power of Church-wardens, and Overseers of the poor, in the placing of Apprentices, with the Justices consent, and their Office in this, these things are to be known. *Co. 2. Inst.* 737. In the placing of Apprentices.

1. They may bind them to be Weavers, Masons, or of any other Trade, as well as Husbandry, or Housewifery. *Sect.* 7.

2. So they may bind Apprentices, any that are above seven, and under fourteen years of age.

3. They may bind the Male-child, till he be 24 years old; and the Female, till she be 21 years

old, or be married, which shall first happen.

4. This placing, may be to any man they think fit to receive him, within the same Parish, and elsewhere, with, or without money: Howbeit, in this Case, it is fit to consider, if the Child be young, and the Party, to whom they place him, not very able; for they may give money, if they will, as they and the party shall agree, *Resol. of Judges*, 1633. *Quest.* 1.

5. That all men that have, or may have use for Servants; as Knights, Clergy-men, Gentlemen, and Yeomen, as well as Tradesmen, are bound to take them, or contribute towards the placing of them; yea, although they do not keep Servants, but be Sojourners, or the like; if they use Husbandry, Clothing, Grazing, or the like; or however their case be, if by their Calling and Profession, they may have use of Servants of like quality, they may be compelled to take them. And if a wealthy man shall live so privately, that he keep few, or no Servants; and liveth so, that he needeth not a Servant, yet he may be compelled, either to take such an Apprentice himself, or contribute towards the placing of him with another. So others that cannot tell what to do with a Servant, having no use for him, are to contribute towards the placing him Apprentice. And this Contribution may be by a Rate imposed and levyed upon him: and yet all these must continue their ordinary Rates to the Poor: All these things have been resolved by the Judges, 1633. *Quest.* 3, 4.

6. That if Parishes be not able to relieve their own Poor, and there be not men there fit to receive them Apprentices, others of other Parishes, within the same Hundred, may (by the Justices) be forced

forced to receive them. And if there be not fit men in the Hundred, then they may go further, as in case of other provision for the Poor. For the Justices (at the Sessions) may compel any of any Parish, within the County, to take them, *Resol. Judges*, 1633. *Quest.* 5.

7. He that is thus bound, may be bound to a man, with respect to his ability, or with respect to his Farm. And, in the last place, it seems reasonable, that he go with the Farm, *Dalt. Just. p.* 115.

8. If any difference be between the Officers and the man that is to receive the Apprentice about money, and what money to be given, or otherwise; the Justices thereabouts, or, in their default, the Sessions must end it, *Resol. Judges*, 1633. *Quest.* 2.

9. If any shall refuse to take an Apprentice thus appointed to him, he is (by the Justices) to be bound over to the next Sessions, or Assizes; and, if he refuse it, they may send him to Gaol, till he enter into such Bond, *Res. Just.* 1633. *Quest.* 7. And if he refuse at Sessions, he may be bound to the Good Behaviour; and indicted, fined, and imprisoned for his Contempt, *Res. Judges* 1633. *Quest.* 7. And by the same, if the Parents refuse to let their Children go, being appointed; or entise them away, when setled; the Parents are to be sent to the House of Correction.

(10.) This binding must be by Indenture, and may not be well done by a Verbal Agreement: And the Indenture must be, either between the Justices, Church-Wardens and Over-seers: or them, and the Apprentice of the one part: and him that takes the Apprentice of the other part. *Sect.* 7.

(11.) This binding is as effectual to all purposes, as if the Children were of full age, and did bind themſelves by *Indentures* and *Covenants*.

(12.) That all ſuch as are ſo bound, may be ſafely received by their Maſters, by 3 *Car.* 1. *Chap.* 4. And they muſt be by them received, or they will be liable to puniſhment, *Reſol. Judg.* 1633. *Queſt.* 2.

10. They are to diſpoſe the County-ſtock, appointed for this end, as the Juſtices ſhall appoint; and to give their account, from time to time, to them, upon 14 *Car.* 2.

Treaſurers for Mariners and maimed Souldiers.

11. They are to pay towards the Relief of maimed Souldiers, and the Orphans and Widows of ſuch ſlain; what any two Juſtices (out of Seſſions) ſhall order, upon 14 *Car.* 2. See Captains and Souldiers, *Chap.* 22.

Poor not to be provided for.

12. Theſe Overſeers (as we have ſaid) are not to take care of ſuch as are able to live: And therefore, if any ſuch perſon travail through a Pariſh with Children, and the Father dye, and leave them; in this Caſe, the Pariſh is not bound, but in Charity to relieve them. Nor of Rogues; nor of ſuch as have, or may have other helps from Parents, Children, Grand-Fathers, or Grand-Mothers. But untill ſuch help can be had (which muſt be by Order of the Seſſions) they muſt be taken care of. See 7 *Jac. Chap.* 4.

Inhabitants and the Poor themſelves; and what is to be done by them, or by others. By the Inhabitants. Sect. 8.

As to the Inhabitants of the Place, and the Poor themſelves; what is to be done for their Relief, theſe things are to be known.

1. That no Inhabitant may give unto any Poor at the doors, but to the Poor of the ſame Pariſh, that have Licence from the Overſeers of the Poor to beg there, under pain of 10*s.* for every time they ſo do. 2. That

2. That the Inhabitants are to take the Children of poor people Apprentices, and to contribute towards their placing with others, as is appointed. See *Sect.* 7.

3. That if any Inhabitant find himself grieved with the Rate, or with any other thing done by the Justices out of Sessions, they may appeal to the Sessions for Relief.

4. That the Father and Grand-Father, Mother and Grand-Mother, Children and Grand-Children, of poor impotent persons, not able to work, being of ability, must help to relieve such poor persons, as the Justices, at their Sessions, shall appoint. But herein take this:

First, That if a man marry a Grand-mother, that hath no estate, the Grand-Father in Law is not chargeable; but if she have an estate, caused without Marriage, or that comes after Marriage, by descent, or otherwise, to her; there he may be charged. But where they have raised themselves to an estate, by their own industry, there it is doubtful. But in no case, shall he be charged longer then his Wife lives, *Resol. Judges, Mich.* 7 *Car. Gerrards* Case, and *Drapers* Case, *Cro.* 2. 346. And in *Mich.* 7 *Car. B. R.* In the Case of *Revet*, *Cro.* 2. Part, 344.

Secondly, That it seems a Bastard-child is not within the intention of this Law.

Thirdly, That no Justices can do any thing upon this Point, against a man that lives in another County. So that if the Justices of *Middlesex* make an Order against one in another County, to relieve a Parish in *Middlesex*; the Order, and all the Proceedings thereupon, will be void. And yet, in this Case, the Justices of the County, where the

the Party dwells, may make an Order in it, and cause the money to be sent up, *Reve's* Case, 7 *Car. B. R.*

Fourthly, And if the Parents, *&c.* refuse to pay this, according to the Sessions Order, they forfeit twenty shillings a week: And this is to be levyed by distress, and sale of Goods; as the Forfeitures upon 43 *Eliz. Chap.* 2. And if they refuse to obey the Sessions Order, and there be no distress, the Party is to be committed, till it be paid.

And as to the Poor themselves, these things are to be known.

Sect. 9. By the Poor.

1. The Poor themselves must work for their living, as they be able, if they may have work; if not, these Officers must help them to work.

2. If their Services be at an end, they must get them new Services.

3. And if they have houses, and their time in them be expired, they must get themselves new houses, *Resol. of the Judges for the Poor, Sect.* 5.

Parents for Children.

4. If Parents be able of Body, and may have work; they, and not the Parish, must provide for their own Children: but if they be overburthened with Children, they may intreat from the Overseers of the Poor, help, by placing of some of their Children Apprentices. And so have the Judges resolved.

That hinder the placing of their Children Apprentices.

5. If Parents shall refuse to let their Children go, or shall hinder their placing, as Apprentices, by the Church-Wardens and Overseers, the Parents are to be sent to *Bridewell.*

Not to beg.

6. No Poor may beg, but in their own Parish; and there also by Licence of the Overseers of the Poor, and not otherwise; Nor with their Licences, may they beg there in the High-wayes, *Resol. temp. Eliz. Sect.* 8.

And,

And, as to others, besides the Parishioners, and the poor themselves, these things are to be known.

By others, Parents to relieve their Children.

1. That the Parents, within the 43 *Eliz.* that are to relieve their Children, are Father, and Grand-Father, and Mother. And Children, include Child and Grand-child, *Resol. Judges*, 1633. *Sect.* 3.

2. That where one Parish is not able to relieve its poor, the next Parish may be forced to contribute to its help; and so to increase, and decrease its help, as the abilities of the Parish holpen, and the number of poor therein, increase or decrease, *Bulst.* 1. part 352.

And as to Souldiers and Mariners, these things are to be known.

Mariners and maimed Souldiers.

1. That Mariners and maimed Souldiers living, their Children and Orphans dead, are to go to the place where they were last setled, and get a Certificate of their Service and Wounds, and repair to the Justices of that County for relief, upon 34 *Car.* 2.

That Souldiers and Mariners where they land, must be sure to get the Testimonial of a Justice of Peace of their landing, shewing the time and place of their landing; and directing them whither they are to go, and in what time and way; and then they must be sure to pursue this time and way, unless they be sick; or it will be dangerous to them, 39 *Eliz. chap.* 14, 17. For being well and able, if they wander about, and shall not fall to work, or go to their places or dwellings, they will be Felons.

3. That if they cannot work, the Hundred is to be rated for them; and, in their way home, one Justice may give them Licence to beg, upon

39 Eliz. Chap. 17. See Captains and Souldiers, Chap. 22.

Justices of Peace, and what is to be done by them herein.

And for the Office of the Justice of Peace, about the poor of all sorts, either within, or without their Sessions; these things are to be known.

Sect. 10. In the Sessions.

1. That as to some things they may do only in their publique Sessions, and not elsewhere: and some things they may do out of the Sessions. As to what they are to do in the publique Sessions, relating to the poor, take these things.

Orders of Sessions about the Poor; where good, or not.

1. That they must be sure, that the Orders they make there about the poor, be according to Law; for if they be otherwise, upon Appeal and Motion in the *Kings-Bench*, they will be made void: and, in some Cases, the Judges of Assize do interpose herein. And therefore, where there is a power given to them, there to rate Parents to keep their Children, or the like; and the Justices of the Sessions, refer this to some of the Justices to be done out of the Sessions, the which is afterward done by those Justices, all this is void, *Steel's Rep.* 174. *Bulstr.* 1. part, 342. So an order, that a Woman Covert shall keep her Grand-Child, is nought; for it ought to be, that the Husband, or that the Husband and Wife together, should do it, *Steel's Rep.* 154. So an order to a Parish, to provide a house, or to give any person means to live on, who is not impotent, but able to work, or hath an estate, upon 43 *Eliz.* 2. *Bulstr.* 347. So if they make an order, against one that lives out of the County; as in case of a Grand-Father, to contribute to a Grand-Child, that is poor, or the like. But in this Case, the Justices of the County, where the Grand-Father lives, may order him, and send the money into the other County, *Bulstr.* 1. part, 345. So where they

For Parents to relieve Children.

order

order a second Reference, about a Bastard-Child: For neither the Justices in their Sessions, or the Judges of Assize, have to do with Bastard-Children; but in Case of Appeal, from the order of the two Justices, to the next Sessions: for they can make but one Order, and no Sessions after can meddle with it, unless they vacate the first Order, and refer it again to the Justices, *Bulstr.* 1. part, 342, 343. Bastard-Child.

So where an Order is made for the Settlement of a poor person, otherwise then by Law it ought to be done. But, for the opening of this Point, about settlement of the Poor; and what the Justices are to do herein, in their Sessions, these things are to be known. Settlement of a poor body; where, and how it is to be done.

1. That this thing is wholly in the power of the Justices, and to be done in their publique Sessions only, and not elsewhere, except it be in the case of Rogues.

2. That there is much in this left to the discretion of the Justices, according to the circumstances of the Case.

3. That none but the poor and impotent are thus to be ordered and setled, *Resol. of Judges* at *Hereford* Assizes, 7 *Car.* 1.

4. That the general Rule herein is, that for every one that is unsetled, but the Rogue, and Wife, and Children, he is to be sent to the place where he was last duly setled. But this, in some special Cases, may be altered: and the Wife (generally) is to follow the Husband, and the Children the Parents: But this hath many exceptions, and he that is once duly setled, is not to be removed, but is there to be looked to.

5. The

3. The Justices are not herein to meddle with any Poor, but such as are impotent, and like to be chargeable to the place where they are, *Bast.* 1. part. 347.

Illegal Settlement. 6. That a mistaken, or illegal Settlement, is no Settlement at all.

By practice. 7. Then a Settlement shall be said to be illegal, when it is brought about by Practice, Composition, or Agreement: as when one Parish shall procure a poor person amongst them to beg, to the end, they may send him to the place of his Birth; or hire a man born in *A.* but setled with them in that Parish, to go and wander in *D.* and beg, that he may be sent to *A.* and he do so; this is not a good Settlement in *A.* and he may be sent again to the Parish from which he came.

By compulsion. 2. When it is brought about by Compulsion: As where one born in *A.* is setled in *B.* and this Parish shall thrust him, and keep him out of a house, and he can have no work; and so is forced to beg, that he may live; and is taken begging at *D.* and thereupon sent to *A.* or if he be setled by order in *A.* upon this Case.

Obscure. 3. When the Settlement is obscure; That the party said to be setled come into, and is in a place obscurely, and incertainly, now and then in a skulking way, or in a Barn, *&c.* As if a man come there now and then, and lye in a Barn, or Out-house, obscurely and incertainly.

Interrupted 4. When it is interrupted and unquiet, by complaint to Justices, or by their Warrants, or by Warning the party to depart, or the like. And therefore, if a man be of able body to work, or hath means of his own, and doth pay his Rent, and live of himself, without looking for any thing, or help

help from the place, the Justices have not to do with him in this. And if they make an Order against the Parish, about Settlement, this will not bind, but it is void, *Buiſtr.* 2. part, 248. See the New Act of 14 *Car.* 2.

5. Where the Settlement is miſtaken: As where a Rogue is taken, and examined, and ſaith, his Birth is at *D.* and it cannot otherwiſe appear; but he confeſſeth truly his laſt place of Habitation was at *S*, whereupon he is whipped, and ſent to *S*; and there it is known the place of his Birth was at *W*, and he doth confeſs it; in this caſe, he ſhall be ſent to *W*.

6. When the party is not fixed, but tranſient, in the place: As where one doth onely travail through a place, or lodgeth in an Inne there, or is an Inmate, or Gueſt only, for two or three dayes together, or gets into an obſcure place for a little time only. And when it is but for a little time only, and for a ſpecial purpoſe onely; as the Child at Nurſe with its Mother, or with another; or a Scholar at School, or in the Univerſity; or one that keeps a Stall in a Market. See for theſe things, *Reſolution of the Judges*, in 1633. *Sect.* 33. Tranſient, and not fixed.

7. To make a good Settlement therefore by Reſidence and Habitation: the party to be ſetled, muſt be either a Native, born there; or if born elſewhere, he muſt be either a Houſholder, Sojourner, Apprentice, or Servant for a moneth, or more, at one time certain, and this openly and peaceably, without complaint to remove him, *Reſol. of Judges*, in 1633. *Sect.* 25. *Sect.* 11. Who ſetled, and where and how the Poor are to be ordered therein.

8. That the place of Birth, or laſt Habitation (if the ſame may be known) are in Judgment of Law) ſaid to be, the place of Setling: ſo that if

one

one be born in one Parish, and he is afterwards an Inhabitant in Service in another Parish, and after this he becomes a Wanderer; in this case, he is to be sent to the last place of his setling to be provided for, *Bulstr.* 1. Part, 252.

9. To make a Settlement by Remove, without an Order of Sessions; so no man but a Vagrant may be sent out of any Parish, by the Parish, to the place of his Birth or last Habitation: For if he there refuse to work, or to work for the Wages appointed, he is to be sent to *Bridewell*, and not to any other place, unless he have means to live by, without his work, *Cook* 2. part, *Inst.* 720. *Resol. Judges*, 1633. *Sett.* 4.

10. That the Justices have not to do with any herein, but with poor men, that may probably be chargeable to the Parish in which they are. And for this, it is by the new Act of 14 *Car.* 2. provided; First, That if any Stranger come to a Parish to settle there in a Tenement, under the value of 10 *li.* a year, and he refuse to give such Security, for the discharge of the Parish, as two Justices shall think fit, any two Justices (*quorum unus*) may by their Warrant, at the complaint of the Parish, send him to the place, where he was last legally setled, either as a Native, Housholder, Sojourner, Apprentice, or Servant, by the space of 40 dayes. And by this, it seems to be the opinion of the Parliament, that no man that rents any thing of 10 *li.* a year, or above, is to be accounted such a poor man, as to be removed by the Order of the Justices of Peace. Secondly, That the man that is 40 dayes, or more, in any place, setled as a Native, Housholder, Sojourner, Apprentice, or Servant, is legally setled, and may not be removed.

And

And for the first Point, in a Case at *Hertford* Assizes, 7 *Car.* 1. it was thus; *Philip Wind* had an Estate and Family, and was able to work, and lived in *A.* four years, in a rented house, and paid his Rent, and was turned out of it; and then they came to *B.* and rented a house there, and paid their Rent; upon the complaint of the Parish of *B.* to the Justices, out of Sessions, they ordered his Landlord in *B.* to discharge him at the end of the year, unless he would give Bond to save the Parish harmless; which his Land-lord did: *Wind* complained to the Justices at Sessions, against the Parish of *B.* that they should provide a House for him there for his Rent; or that the Overseers for the Poor should provide for him. It was by the Judge Resolved, That all these Orders made by the Justices, in, and out of Sessions, were void; for he was neither a poor nor impotent person, to be provided, by 43 *Eliz.* And the Justices of Peace have no such power given to them by Law, to make such Orders; but the said *Wind* was to provide for himself where he pleased, and that he might go to which of the Parishes he pleased.

11. That he that comes with a Certificate from the Minister, one of the Church-Wardens, and one of the Overseers, that he hath an Habitation and Family in another Parish, and comes to work at Harvest only, and returns when he hath done, is not to be accounted such a one, as to be ordered to remove by the Justices; nor shall this make any Settlement; not if he shall be sick or impotent there, but any two Justices may send him to his Habitation, where the Overseers must receive him, by the same new Act of 14 *Car.* 2. Two Justices.

12. That if any one be removed out of place that ought to stay there, he or they forfeit 5 l. that had a hand in it.

13. It is to be enquired, when a person shall be said to be likely to be chargeable to a Parish, and so to be removed and setled by the Justices. And it seems, for this, to be left to the Justices discretion, upon examination of the whole matter with the Circumstances, &c. And yet see *Philwind's* Case at *Hereford* Assizes, 7 *Car.* 1. *Bulstr.* 2. Part, 348. That where the Justices of Sessions shall order a Parish to provide a house for the Rent, or provide means to live for one able to work, that lives well, and pays his Rent, and the like; that this Order is void, and the Parish not bound to obey it.

14. That where a Rogue, or other such like person, is sent by Justices, to be setled in a Parish, he is to be tendred to the Church-Wardens and Overseers of the Poor of the place; or the Officers be punished, for not tendring him so: and they are then to receive him, or be lyable to punishment on either side, *Resol.* of the *Judges, temp.* Q. *Eliz. Sect.* 10.

15. That all persons, thus ordered to be disposed of by the Justices, as in the case of Rogues and the like, are to submit, and conform; for if the Officers be negligent, or the Parties themselves ordered; or others shall disturb the work by Rescue, or shifting away of the person to be removed or otherwise, he is punishable; if it be in the case of a Rogue, he forfeits 5 l. and, in other cases, he may be indicted, and fined for it; *Resolution* of the Judges, *temp.* Q. *Elizabeth.*

16. That

16. That where a Parish doth extend into several Counties, or Liberties, there the Justices, or Head-Officers, shall only intermeddle within their respective Limits: But the Church-Wardens and Overseers shall have mixt Jurisdiction, and shall render account, according to the Laws, to the Justices, or Head-Officers, in both places; by 43 *Eliz. Chap.* 2.

For the further opening of the Point of Settlement; and who is to be sent and setled as a poor person; and whither he is to be sent, take these Cases.

Sect. 12. Where a poor person to be setled, shall be setled; and on what place, or person, the charge of relief of such a person shall lye. Of a Scholars Parents.

(1) That a person visibly impotent, and already chargeable to the place, must needs be taken for one like to be chargeable to a place. But in other Cases (it seems) the Justices are to judge who are like to be chargeable, and to be removed and setled.

(2) If a Scholar in the University, or in a Grammar-School, begin to be suspect, he may be, or, if he do become impotent, and is like to be a charge in the Parish where he is, he must be sent to, and setled with his Parents, if he have any. Otherwise, to the place where he was last setled, before he came to School, *Resol.* of the Judges, 1633. *fol.* 31.

(3) If one be born and live 20 years in *A*, and go to *B*, and there live in a House and pay Rent, and after he comes to *C*. and there works 20 weeks, as a Labourer in a Quarry of stones, where he breaks his back, and becomes impotent, and there is taken vagrant and begging: In this case he is to be sent to *A*. the place of his Birth, and there must be provided for, *Resol. Judges*, 14 *Car.*

Of one that is not a Vagrant.

(4) If a man that hath a Wife and Childre take a House in one Parish for a year; and dur this time he is illegally forced out of the possessi And then he takes a House as an Inmate in anot Parish, out of which he is put, in two or thr dayes; And then not having any place to be in gets into a Barn in the third place, and there Wife is delivered of another Child; In this c they are all to be sent to the Parish out of wh they were first forced, *Resol. Judges* 1633. Sel 24.

Of a Child.

(5) It is said, That if a man hath a Wife th hath a House in one Parish, and is setled there an Inmate, and the Husband be unsetled in an ther place; that he shall be sent to his Wife. B this must be warily taken.

Sect. 13.

Of one that is a Vagrant or Rogue.

(6) If one be born in *D*, and left that place years since, and lived in *S*, there took a House paid Rent, and hath left that place six or seve years since, and came to *L.* in another County, a there was 20 weeks, did work, and there becam impotent, and did wander and beg in the sa place; In this case, if he be taken up as a Vagra he is to be passed, and setled at *D.* where he w born, by the Judges at *Worcester* Assizes, 14 C 1. *Bulstr.* 1. part, 357.

(7) If a Child of Parents lately dead, becom vagrant, and be above seven years old, this Ch must go to the place of its Birth. So where t Parents are run away. But if a Vagrant under s ven years old, be setled with the Father or Mother, when one of them is dead where he she is born, or dwells, and the Vagrant is on to seven years of age, and then the Parents dye run away: In this case, the Vagrant must conti

there, and not be sent to the place of its Birth. So the Vagrant under seven years old, is to be with the Father, and when he is dead, with the Mother where she was born, or dwelt. And if he will not tell where he was born, or last dwelt; or, say he was born in such a Town, and when it is examined, it is found not true. In this Case he is to be sent to the House of Correction there in the County where he is, and for lack of such a House, to the Common Gaol, *Resol.* of Judges *temp. Eliz.* Sect. 4. 13.

(8) If the Husband and Wife rogue about in *A.* and he hath a House in *B*, they are to be sent to *B.* And so, albeit he be but an Inmate there, *Resol.* of Judges, *temp. Eliz.* Sect. 16.

(9) If Children that have been at Nurse, stay till seven years, and then turn Vagrant, they are to be sent to the place of Birth.

(10) If a Rogue be taken at *C*, and will not confess the place of his Birth, neither doth it appear otherwise, but that he confesseth the last place of his Habitation to be at *S*, hereupon he is whipt and sent to *S*, and there the place of his Birth is known to be at *W*, which he confesseth, in this case he is sent to *W*, *Resol. Judges* 1633.

Of the Children of a Vagrant or Rogue.

(11) The Wife and Children of the Rogue generally is to be setled with him. And if the Wife become Vagrant, she is to be sent to her Husband. And if the Rogue have Children above seven years old, that rogue about with him or her, they must be sent to *Bridewell* with the Rogue, if he or she go thither. And when he, or she, go out of *Bridewell*, they are to be sent to their several places of Birth. And if a Woman be delivered of three Child in one Parish, and then turn Vagrant,

and is sent to the place of her Birth? In this case, the Child under seven years old, is to be sent to its place of Birth, and not to be with the Mother, *Resol. Judges, temp. Eliz.*

Sect. 14. Child at Nurse.

(12) If it be a Woman-rogue, and she have a Child at Nurse; that Child must remain with her in *Bridewell*, while she is there. And when the Child is out of that condition, and till seven years of age. And then it is to be passed with the Parents whither they are to go. And if the Parents Birth or dwelling place cannot be known, then may they be passed with the Parents, to the place where they last past through without punishment, there to be relieved by the labour of their Parents in *Bridewell*, *Resol. Judges, temp. Eliz.* Sect. 7. 13.

(13) If a Rogue, whose place of Birth, or last dwelling, cannot be known, hath Children under seven years old, they must go with the Father to the place where they were last suffered wilfully to pass through unpunished, where they must be relieved by the work of the Parents, albeit they be in the House of Correction, *Resol. Judges, temp. Eliz.* Sect. 2. 13. So that the Children of the Vagrant under seven years old, must be with the Father. And the Vagrant Children above seven years old, must be sent to their place of Birth. And if then the Vagrant Parents with their Children under seven years old, be placed at the place of the Birth of the Parents, or at the place of their last dwellings, as the case falls out to be. If afterwards the Parents, or either of them dye, or run away, yet the Children once settled, must remain still in that place, and may not when they grow, be sent to their place of Birth, *Resol.* of the Judges. And if Children above seven years old be taken beg-

begging with the Parents, they may go to *Bridewell* with them; if under seven years old they are to be passed with the Parents; and if the Parents Birth or dwelling cannot be known, they must go the place they last past through without punishment, and there be relieved by the labour of their Parents in *Bridewell*, *Resol. of Judges*, 6 *Eliz.* 1. 13.

Sect. 15. Of the wife of a Vagrant or Rogue.

(14) If the Wife of a Vagrant be to be setled, she is to be setled with her Husband, especially if they be taken roguing together. And yet if she be no Rogue, it seems she is rather to be sent to the place of her last settlement, whiles her Husband is in *Bridewell*. And then she is to be setled where he is setled, and to be disposed as he is disposed of. And if the Wife alone be a Vagrant, and taken up, and whipped, and she hath a Husband in another place, being there in a House as an Inmate, or out of a House as a Servant, she must be sent to her Husband. And yet it seems by the words of the Statute, she is first to be sent to the place of her birth, by 39 *Eliz.* See *Resol. of Judges*, 6 *Eliz.* Sect. 15.

Wife a Vagrant.

(15) If a Rogue have a Wife, and will not be known where he last dwelt, or setled: In this case his Wife shall be sent with him to the place, through which he was suffered last to pass through unpunished, where she is to work if she be able, *Resol. Judges, temp. Eliz.* Sect. 2. 13. But otherwise the Wife must be with her Husband; and if he be dead, she must go to the place where he was born, or last dwelt, *Resol.* of Judges.

of children that are not vagrants with Parents.

The Wife of a Rogue, if she be roguing with her Husband, must be disposed as her Husband is disposed. But if she be no Rogue, she is to be sent to the place of her last settlement, whiles her

Husband is in *Bridewell*, and then she is to be settled with him.

(16) For the settlement of Children not Vagrants, take these Cases.

1. That the Children (for the most part) are to be sent to, and settled with their Parents while they live, especially if they be able to work, and help them by their labour, which they must do, and if the Parents be able to work, they may not suffer their Children to be chargeable to any Parish, *Resol.* of Judges *temp. Eliz.* Sect. 1.

2. That nursing-children are to be (for the most part) with the Mother.

3. That where ever a Woman with Child is to be settled, put this case, If she die, her Child is to be settled in that place. And yet if a Woman with Child be sent to *Bridewell*, and there be delivered, the Child shall be sent to the Parish from which the Mother was sent. By the Judges, 14 *Car. Buister.* 1. part, 358.

4. That where the Parents die, there the Children that are there duly settled at the time of their Parents death, may not (as it seems) be moved to their place of birth, or last habitation; but are there to be set on work, or relieved by the Town, where they were at their Parents death. *Fleming* chief Justice, M. *Dalton*, 75.

5. At an Assizes, 9. *July*, 8 *Car.* It was observed by the Judges, That the Child regularly is to be kept where it is born, if no practice be in the case to have it born there; but if so, then it is to be kept by the Parish where she did dwell and the practise was, and where she was got with child. As if a Servant Maid dwell in *T*, and is

got

got with child there, and being near her time, conveyed by practice into an out-house in *T.* where it is born; *T.* relieves her for two years after, she being sick, is sent to *L.* with her child, where the Mother dieth, the child is sent to *E.* *L.* sends it to *T.*: In this case it was ordered, That the Parish of *T.* shall keep it.

6. That Children at nurse with the Mother, or another, that are like to be chargeable to the place, are to be sent to their Parents, if they have any; if not, to the place of their last settlement, or birth, in case of Vagrancy.

7. If I live in *A.* in a house there with my Children, but I work in *B.* where I am hired by the year; In this case, my Children shall be in *A.* But if I take a house in *B.* they shall be placed there.

8. That if a travelling Woman be taken with her Child, and sent to Gaol for Felony, and hanged, the Child shall not be chargeable to the place where the Gaol is, but to the place where it is born (if it can be found) otherwise to the place where the Mother was apprehended, *per* Sir *Nicholas Hide*, 3 *Car.* 2.

9. That if a Child be duly setled with Father or Mother, and they die, or run away thence, it must there continue, and may not be sent to the place of its birth. As if a Vagant under seven years old, be setled with the Father, and he be dead, or with the Mother, where she was born or dwelt, and he come to above seven years, and the Parents run away, or die, it is not to be sent to the place of Birth, *Resol. of Judges* 13.

10. If Parents of Children that are Rogues pass through a Town, and there die, or run away, and leave

leave their Children; the Town is not to take care of them; but if they become vagrant, the Town may send them to their place of Birth. *Resol. of Judges, temp. Eliz.* Sect. 5.

11. *A.* with a young Child under seven years old, is going with a Passe to *Dale*, where the Child is born, and dieth in the way: *A.* being a wanderer with three Children born in three Parishes, comes to *Dale* with them to her Sister, and there dieth. In these Cases the Children must be setled in the several Parishes where they are born, and not in the Parish where the Mother died, *Ballfr.* 2. part. 351. And they are so to be sent, as poor to be provided for by them, and not as Rogues, or Vagabonds to be corrected, *Resol.* of the Judges at *Worcester* Assizes, 5 *Car.* 1.

12. If Children unsetled have no Parents, being dead, or not to be found, they must go to the place of their last settlement, unless they become Vagrants, then to the place of their birth, if above seven years old; but otherwise, young Children, whose Parents are dead, and were setled, they are there to be setled where they are, and their Parents dwelt when they died. And if in this place they attain to seven years old, or become vagrant, yet may they not (as it seems) be sent to the place of their birth.

Sect. 16. Of a Bastard Child, and the Mother of it.

13. If a Woman have a Bastard-Child in one Parish, and after go into another Parish with it, or become vagrant, and is sent to the place of her birth: In this Case, if the Mother, and reputed Father be poor, the Child as long as it is nursing, must be with the Mother; but afterwards it must be sent to the place where it was born, *Judges Resol.* 1633. Sect. 32.

14. If

14. If a Woman unmarried, be hired weekly, monethly, half-yearly, or yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is setled in Service, or otherwise two or three moneths, and then discovered to be with Child: In this Case, she and her Child shall be setled in the Parish where she is, and not in the Parish from whence she came, *Resol. of Judges*, 1633. Sect. 12.

15. If a Maid-servant be gotten with Child by her fellow-servant, or another of the same Town of *A*, and after the time of both their Services ended they marry, and then the man is retained in *B*, but the Woman is delivered of her Child in *A*: In this Case, the Mother and Child is to be setled with the Father in *B*.

16. If a Woman be delivered of a base Child in one Parish, and then go into another Parish with her Child; In this Case, the Child after it is nursed, is to be sent to, and setled in the place of its birth, and not to remain with the Mother, *Resol. of Judges* 1633. Sect. 21. If a Woman have a Bastard Child, and she take a Husband; it is said, he is not bound to keep the Child; unless he have an Estate by the Wife, but that the place where it is setled, must keep it. *Quere* of this; for if Parents comprehend Grand-father and Grand-mother, upon 43 *Eliz.* then why not Parents in Law, as well as Parents in Nature.

17. If *A.* have a Bastard-Child by *B*, born in *Dale* 10 years since, the reputed Father marrieth another Woman, and they breed it 10 years in the Parish of *Sale*, the Mother of the Child is in Service all this while, and is a simple Woman, the reputed Father dieth: In this Case, the Child is

to

to be sent to the Mother first, to be maintained by her if she be able; if not, it must be sent to the Parish of *Sale*, where it was setled with the Father 10 years, *Bulstr.* 2. 350. *Judges* 7 *Car.* 1.

18. If a Servant-Maid be with Child in *Dale*, and she being near the time of her delivery, is by practise conveyed into an Out-house, in the remote unknown parts of another Parish, and there brought a bed, the Child christned in *Dale*, and there she is relieved two years: the Mother falling sick, is by them of the Parish sent to *L*, where she died with the Child, the Child is sent to *Dale*, and by this place to the other place where it was born: In this case, the Child shall be sent to *Dale*, because of the practise, otherwise to the place where it was born, *Bulstr.* 1. part, 349.

19. If a Woman have a Bastard Child, that is like to be chargeable to a Parish, and she be sent to the House of Correction for it (as she may be): It is made a question, whether the Child shall go with the Mother, or remain in the Town where it was born, and there be relieved by the Mothers work, or by the reputed Father, upon 18 *Eliz.* And it seems most reasonable to be so. But the common practise is otherwise, 18 *Eliz.* Chap. 3. And at *Worcester* Assizes, 14 *Car.* 1. It was Resolved by the Judges in the case between two Villages, That if one great with Child, be sent to the House of Correction, and there be delivered, that the Child must be sent back to the Parish, there to be provided for.

20. If one be delivered of a Bastard-Child in one Parish, and then she goeth into another Parish, there she becomes vagrant, and is sent to the place of her Birth. In this case, the Bastard-Child, whilest

whiles it is a Nursing-Child, and untill it be seven years old, shall be setled with the Mother. And after, in case the reputed Father and Mother be poor, it shall be sent to it's place of Birth, *Resol. Judges*, 1633. *Temp. Eliz.* Sect. 21. See more, *Cro.* 1. 154. 248. 255. 338.

Of a Wife after her Husbands death.

21. The Wife, is in most cases, to be setled with the Husband, though he be but an Inmate or Servant, in the place where he is; and much more, if he have a house there. And if the Husband happen to die, she must be then sent to the place of her Birth, if she came from thence to this place; otherwise, to the place of her last habitation. And so in every case after her Husbands death, she is removeable, according to her case, *Resol. Judges* 1633. Sect. 13.

If the Husband have a House in *A*, and there he is by night; but is a Covenant-Servant to a Master in *B*, and there he is all the day; In this case, his Wife is to continue in *A*: But if the Husband take a House in *B*, she shall be setled in *B*. with her Husband.

If the Husband be dead, and the Wife turn vagrant, she is to be punished, and then sent to the place of her Birth; but if she be none, to the place of her last settlement.

If a Man and Maid-Servant marry together in *A*, and the Man is retained in *B*. in Service, and there setled; In this case, he is to be sent to her Husband in *B*, and not to stay in *A*.

Of a Nurse-child, Scholar, &c.

If a Nurse-child, a Scholar at a Grammar-School, or the University, or a person sent to a common Gaol, Hospital, or House of Correction, fall impotent by lameness, sickness, Lunacy, or the like; they are to be sent to their Parents, and not

to

to be esteemed as setled there, no more than a Travailer in an Inne. And Children that are born in common Gaols and houses of Correction, their Parents being Prisoners, are to be maintained at the common charge of the County, *Resol. Judges* 1633. Quest. 32.

Of a Servant or an Apprentice.

That a Servant, or an Apprentice, in that condition, as such a one, is said to be setled, and therefore being out of his time, he is not to be removed, but there to continue.

If he be able to work, he must help himself to House, Service, &c. But if he be impotent, he must be relieved by the Parish. But if the Master of such an Apprentice, as is put Apprentice by the Church-Wardens and Overseers die within the time of his Servants service; in this case (perhaps) the Executors of the Master may be forced to provide for him till his time be out. But afterwards he must come upon the Parish, *Resol. of Judges*, 1633. *Sect.* 25. And if a Woman with Child procure her self to be retained with her Master, who knoweth nothing of it; this, it seems, may be cause sufficient to be quit of her. But if she be gotten with Child, during his Service, it seems to be otherwise. But in neither case, may the Master, of his own authority, put away his Servant, without the help of the Justices. And so if he be quit of her within the term, or her term be ended, she must then fall upon the Parish, and be there setled, *Resol. of Judges*, 1633. *Sect.* 20. If a Woman-Servant unmarried be gotten with Child, and then is lawfully quit of her Masters service before, or after it is discovered she is with Child, and the reputed Father is run away, or impotent; in this case, the Parish, and not the Master, must take

Executors.

Master put away Servant.

care

care of her. But if the putting of her away be within the time, and without any order of the Justices, in this case the Master may (perhaps) be chargeable with her during the time, *Resolution of the Judges*, 1633.

21. That such as come to *Bath*, or *Buxton*, for the cure of their Diseases, and stay there, are not by this account settled there, by 39 *Eliz. Chap.* 4. *Bath and Buxton.*

22. That where a Souldier or Mariner, that hath been in the King's Service by Land, or by Sea, is become impotent, he is (as it seems) to be settled where he was settled, when he took up Arms for the King, or went first into the King's Service. *Of a Souldier or Mariner.*

23. No man is to be put out of the Town where he dwells, nor to be sent to his place of Birth, or last Habitation, but a Vagrant; nor are they there to be relieved, except they be impotent.

24. If any persons within a Parish, shall take upon them otherwise, to dispose of their Poor, than according to these Rules; they may be punished for it, and are in danger of the 5 *l.* forfeiture, in 39 *Eliz. Chap.* 4. And a poor person that is usually sent from one Parish to another, may be sent back again to the place from whence he came. And if the Justices themselves shall settle a poor person, or Vagrant, &c. otherwise than after these Rules, this settlement will be naught, and the Kings-Bench will alter it. And the man that is thus setled by the Justices, after the Rules before laid down, he is not to be moved again. But there he must abide, and provide for himself if he be able: if not, he must be provided for by the Parish. And if any disturbance be to any Settlement, by order of the Justices; as if any Constable refuse to receive and convey a Rogue, where he ought

ought to do it: or any Church-Wardens and Overseers of the Poor shall refuse such a one as is duly sent, and to be setled there, he may forfeit 5 l. by 39 *Eliz. Chap.* 4.

About Apprentices.

2. The Justices are in their Sessions to order the matters of difference about Apprentices; And here the Refusers to take Apprentices, are to be bound to the Good Behaviour, Indicted, Fined, and Imprisoned for their Refusal to take their Apprentices assigned to them, *Resol. of Judges*, 1633. *Quest.* 7.

Order the keeping of a Bastard-Child.

3. Here also, they take order for the securing of a Parish from a Bastard-childs charge, upon an Appeal of the party charged by the two Justices Order, upon 18 *Eliz. Chap.* 3. Wherein take these things;

1. It seems the Justices may not in the Sessions make a new, or another Order, or commit to Prison, for not obeying of the old, or their new Order. But that they have to do, is, to vacate, or affirm the Order of the two Justices, *Hamond's* Case, *Mich.* 3 *Jac. B. R.* 6 *Car. Mich. B. R. Smith's* Case.

2. If the first Order be made in the Sessions, it is altogether illegal and void, *Stile's Rep.* 475.

3. The Justices may not here make Order upon Order: But they are at the next Quarter-Sessions, after the Order made by the two Justices, to make an end of this Order, by the allowing, or disallowing of it: If disallowed, have referred it to the same Justices, to have considered it again. So resolved by the Judges in *Smith's* Case, *B. R.* And there resolved, That after an Appeal to Sessions, if the Justices repeal the Order of the two Justices, the matter is as *res integra* before them; and

they

they may then refer it again to the next Justices.

2. That they refer it again, before they have allowed, or disallowed the first Order. *Smith's* Case, *Resol. Judges, Mich. 6 Car.* B. R.

3. That neither the Judges at their Assizes, nor Justices in their Sessions, have power to meddle with Bastard-Children, but upon an appeal and setling, but it is to be done by the two next Justices, *Pasch.* 8 *Car.* B. R. *Bomber* and *Panter.*

It was Resolved, That the first Order made in Sessions upon appeal is binding, and all after-Orders are void, and no appeal can be from the Sessions Order, neither can it be altered by the Judges: So Resolved by the Judges. *Banes Reports*, Resolved, That where another was made, &c. *Cro.* 1. part, 255. *Bulstr.* 1. part, 357. Stile, *Rep.* 475.

About Rates.

4. In the Quarter-Sessions also, the Justices may impose a Rate upon certain persons within the whole County, or upon one or more persons of another Parish in the County, to contribute to the help of the poor of another Parish, not able to bear the charges of their poor themselves, but they may not rate Hundreds or Parishes entirely. And this is to be levied in the same manner, and under the same penalties as the money rated within the Parish is levied, by 43 *Eliz.* 14 *Car.* 2.

Sect. 18.

5. There also the Justices may rate the Parents, Grand-Parents, or Children of such as are poor towards their relief, where they see cause. The which rate they must pay, or forfeit 20 *s.* a moneth; the which money, they may give warrant to the Church-wardens and Overseers, to levy by distress and sale of Goods. And, in default of distress, send the party to prison till he pay it. *Sed quære,*

quare, If this may be done by one Warrant, a
how the Justices shall take notice of lack of d
stress, but by Indictment, upon 43 *Eliz.* Chap. 1
But herein take these things.

1. That a man is not to be charged for
Wife's Grand-mother, but in case where she bri
him a good estate by the marriage. And if t
case be so, that he hath nothing with her, but th
have gotten an estate by their industry, after ma
years, he is not to be charged, *Bulstr.* 2. pa
345.

2. That if the Child to be relieved be a Bastar
Child, this is not within 43 *Eliz.* to be so relie
ved.

3. If he have no Estate by her in marriage,
after some good Estate comes to her, as Land
descent, or the like; in this case, it seems
Grand-father is to contribute. Yet the Judg
were divided herein, *Bulstr.* 4. part, 245, 24
247.

4. But the Sessions may not, as it seems, se
the Child to the Grand-father or Grand-mother
be kept; but it may set a Rate only, *Bulstr.* 2. pa
245. 246, 247.

Pensions. 5. Here also in the Sessions, the Justices are
make allowance of Pensions to Souldiers and Ma
riners, not above 10 l. to a common Souldier,
above 15 l. to an Officer under a Lieutenant,
above 20 l. to a Lieutenant. And where a
pension cannot be allowed out of the County wh
the party was prest, it shall be supplied by
Counties where he was born, or last dwelt for th
years, 43 *Eliz.* 3.

6. Here the Justices are to dispose the Surp
sage-money of the Rate for Mariners, main
Souldie

Souldiers; and likewise the forfeitures upon 23 *Eliz.* 3. upon charitable Uses; according to their discretion.

7. There they may levy 5 l. by their Order upon the Justices of a division, or Officers of a Corporation, wherein the Overseers of the poor shall not be chosen accotding to the Statute of 43 *Eliz.* 2. chap. 2. This to be levied by the Sessions Order, and to be imployed to the use of the poor of that Parish. And to this use, are all the forfeitures upon that Statute to be imployed, by 43 *Eliz.* chap. 2.

Forfeitures how to be imployed.

8. Here also they are to rectifie the Parish or Hundred Rates about the poor. And their order thereof in the Sessions, will be concluding to all parties, by 43 *Eliz.* chap. 2. *Resol. Judges*, 1633. *Quæst.* 18.

About Rates rectifying.

9. Here they are to give order for the erecting of Cottages for the poor to dwell in upon any Waste, and the lodging of Inmates therein. And so it may be done without the Lord of the Manors consent, and no breach of the Law of 31 *Eliz.* chap. 7.

Erecting a Cottage for the poor.

Here they may at every Easter Sessions (as they see cause) rate every Parish of the County weekly, no Parish above 6 d. nor less then a half peny, one with another, the whole County or Corporation, not above 2 d. a Parish for relief of Prisoners in the Gaol, upon 43 *Eliz.* chap. 2. And this Rate, And such so rated, the Constables and Church-wardens of every Parish, or, in their default, any one Justice of Peace may *ex officio*, distrabute in the Parishes, and then may levy by distrest, sale of Goods: in default of distrest, any one may commit the party to prison till it be paid, upon 43 *Eliz.* chap. 2.

Set a part upon the County.

For prisoners in the Gaol, Constables & Church-wardens, One Justice out of Sessions. Rate for the Kings Bench and Marshalsey Courts.

Here also they must then rate the County towards the Kings Bench, and relief of the Marshalsey, and also of Hospitals and Alms-houses; so that the Kings Bench and Marshalsey, may have each of them at least 20 s. a year a piece. And this same so rated also, the Constables and Church-wardens may, *ex officio*, distribute by Rate, and levy upon the Parish, as before in the other Rate; and having levied it, they are to pay it quarterly to the High-Constable of that Division, 10 days before every Quarter-Sessions. And the High-Constables are at the Sessions under pain of 10 l. to pay it to one of the Treasurers of the County Stock, which the Justices are here to choose every year of the sufficient men of the County: which Treasurers, are yearly at Easter Sessions, to give in an Account, and to pay to their Successors the money in their hands to them. And the money in the Kings Bench and Marshalsey, is to be paid to the Lord Chief-Justice of the Kings Bench, and the Knight-Marshal, by equal portions, under pain of 20 s. And these forfeitures are to be levied and imployed by these Treasurers. And besides, the Treasurer that refuseth to execute his Office, or to distribute the money or account, as the Justices shall here order him, may be fined 3 l. or above, which Fine may be levied by sale of his Goods, by the prosecution of any two of the Justices authorized by the rest of them, upon 43 *Eliz.* chap. 2.

11. They are as formerly to rate the County for relief of maimed Souldiers and Mariners living, and their Children and Orphans dead, by 43 *Eliz.* chap. 3. and 14 *Car.* 2. And to appoint Treasurers to distribute the money. And every Parish is to be rated so much more. And the Justices in

their

their Seſſions, may rate the County as they think fit, not leſs then 3 d. nor more then 2 s. a week on a Pariſh for the year. And at the Quarter-Seſſions, they may ſettle what Penſions they think fit, not above 20 l. to one man, upon any maimed poor Souldiers or Mariners of the Kings, or upon the Widow or Orphans of ſuch poor Souldiers, by 14 *Car.* 2.

12. They are here to diſpoſe of the County Stock to Charitable Uſes, according to their diſcretion, upon 43 *Eliz.* chap. 2.

13. Here alſo, they are to order the Settlement of one that is a ſtranger, newly come into a Pariſh, that is ordered by two Juſtices to be ſent to another place, upon the parties appeal to the Seſſions, 14 *Car.* 2.

14. Here alſo they may order a Pariſh to find a houſe, or give relief to a poor impotent perſon. But if he be not ſuch a perſon as needeth relief, the Pariſh may refuſe it, *Balſtr.* 2. part, 348.

15. The Juſtices are here to order matters about the ſettlement of the Children of poor people Apprentices, and of any differences that ſhall ariſe about it. And here they may bind to the good behaviour, or indict and fine for contempt, ſuch as ſhall refuſe to take an Apprentice placed to them, or to contribute towards their placing.

The Officers in Corporate Towns, and Aldermen in *London*, have in their ſeveral Precincts, like authority that the Juſtices have in their Counties; the Juſtices whereof, are not to intermeddle in Corporations, for the execution of 43 *Eliz.* chap. 2. Mayors, &c. Corporate places.

And ſo much of the Juſtices power in the Seſſions.

What the Justices hath to do out of the Sessions in these things.

And as to what the Justice of Peace hath to do out of Sessions, these things are to be known:

1. That if a stranger come to work at Harvest only, and bring such a Certificate as by the Act 14 *Car.* 2. is provided, and he fall sick or impotent, any two Justices may send to the place from whence he came; and if he refuse to go thither, and shall of himself return whence he came, any Justice there may send him to the House of Correction to work, and to be dealt with as a Vagrant: And if the Church-wardens and Overseers of the place to which he is sent, shall refuse him, or to provide for him as for the rest of the Poor of the place, any one Justice of that County may send for them, and bind them to the Assizes or Sessions, there to answer for their Contempt, 14 *Car.* 2.

2. That any two Justices may upon complaint by the Church-wardens and Overseers, within forty dayes after any Stranger is come into the place and settled in any thing under 10 l. a year, by their Warrant send him to the place where he was last legally settled as a Native, Housholder, Sojourner, Apprentice, or Servant, 40 days or more; unless he shall give such Security to save the Parish harmless, as the Justices shall judge sufficient. And this any two Justices, *Quorum unus*, may do, upon 14 *Car.* 2. But if he find himself agrieved with what the two Justices have done, he may appeal to the Justices in the Quarter-Sessions; but it must be at the next Sessions, or it is too late.

Appeal.

3. That we must here, by the way, warn Justices, That as to the 5 l. Forfeiture upon the Escape of Prisoners in the Gaol, upon 14 *Eliz.* The 10 s. forfeiture by the Church-wardens, and 20 s. by the High-Constable about the Kings-Bench and

Caution to Justices.

Mar-

Marſhalſey-money, the Fine to be ſet on the Treaſurer for his default; The 20 s. to be ſet on the Overſeers of the poor for their neglect about the Kings-Bench and Marſhalſey-money, upon 43 *Eliz.* The 20 s. upon the Church-wardens and petty-Conſtables, and 40 s. upon the High-Conſtables for their default about the Mariners and maimed Souldiers money, we judge it not ſafe for the Juſtices out of the Seſſions to grant any warrant for the levying of any of theſe Forfeitures, upon 43 *Eliz.* For the Statutes do not certainly preſcribe the way of Conviction and Execution both, in any of them, but is defective in one of them; and therefore the ſafe way to convict theſe offences, and levy the Forfeitures thereupon, is by the Seſſions.

4. That there muſt be two or more of the neareſt Juſtices of the place, *quorum unus*, that muſt yearly within a moneth of Eaſter, under their hands and Seals (*ſub pœna* of 5 l. to be forfeit by the Juſtices) appoint two, three, or four ſubſtantial perſons of every Pariſh to be Overſeers of the poor, and to joyn with the Church-wardens in that Office; upon 43 *Eliz.* chap. 2. And they are to joyn with the Officers of the place to ſet their poor on work, to put forth their Apprentices, and to make and levy Rates upon the Pariſh, for the raiſing of money for the work, 43 *Eliz.* chap. 2. And any two of the ſaid Juſtices, *quorum unus*, for this purpoſe, may do theſe following things: (*viz.*) 1. They are to agree with the Church-Wardens and Overſeers in the placing of poor Children Apprentices, and puniſh them that will not take them, bind them to the good behaviour and to the Seſſions; upon 43 *Eliz.* chap. 2. So they may puniſh

nish their Parents, that refuse to let them go, and the Children that refuse to go; upon 43 *Eliz.* If any difference be about this, they may decide it if they can, or leave it to the Sessions, *Resol. of Judges*, 1633. Sect. 2, 3, 4 §.

5. That if any refuse to receive the Children of poor people, as Apprentices being placed to them, or to contribute towards it, the Justices may require Surety of them to appear at the next Quarter-Sessions or Assizes; and if they refuse, send them to the Gaol till they do so. And if they shall then appear at the Sessions, and there refuse, the Justices may bind him to the good behaviour, commit him to prison, or cause him to be Indicted, and Fined for his Contempt, *Resol. of Judges*, 1633.

6. That if the Parents of such poor Children refuse to let them go to be bound, or intice them being bound, they may be punished by the Justices for it; And any two Justices, *quorum unus*, may do it.

7. That they may send to the House of Correction, or Common Gaol, the persons married or unmarried, having no means to maintain them, that use no ordinary and daily Trade of life to get their Living by, that be ordered by the Overseers with the Justices consent, to work, and will not work, upon 43 *Eliz.* chap. 2.

8. They may allow of, and subscribe the Rates made by the Overseers and Church-wardens, and to give warrant for the levying of it, and to force the Refusers to pay it, by distress and sale of Goods, and for lack of Distress, by Imprisonment, untill it be paid.

9. They may agree to, and license the setting up of a Trade in the Parish to set the poor on work there;

there; upon 43 *Eliz.* chap. 2. And if there be but one Justice in the Division, he alone may do this: And other two Justices, *quorum unus*, as well as the Justices who made the Overseers of the poor, may give Warrant for the levying of the money, by 43 *Eliz.* chap. 2.

10. They may, if they perceive a Parish to be over-charged with the poor, lay a Rate upon any persons within any other Parish within the Hundred, but not upon whole Parishes, to help them. But if they will go further then the Hundred with the Rate, then it must be done at the Sessions. And there a Rate may be set upon certain persons dwelling in any part of the County to help that Parish.

11. They may also send their Warrant to the present or subsequent Church-Wardens and Overseers, to levy by distress, and sale of Goods, all Arrears of Rates remaining in any mans hands; and, for lack of distress, send them to Gaol till it be paid, upon 43 *Eliz. Chap.* 2.

12. They may force them, at the end of their year, to give up their account to them, and pay what money is in their hands to their Successors, or the 20 s. forfeiture for neglect of it, or of any part of their Office, by distress and sale of Goods; and, for lack of distress, by Imprisonment, 43 *Eliz.* Two Justices may also take account of these Officers yearly, of their employment of all such money as they have in their hands of any mans gift, for the binding of poor Children Apprentices, by 7 *Jac. Chap.* 3.

13. Any two Justices, upon complaint of a poor maimed Souldier or Mariner that hath served the King, on proof of his service and wounds, by the Certificate of the Captain, or otherwise, which they

Souldiers and Mariners.

they may take upon Oath, order him relief out of the County-stock, till the Quarter-Sessions, and there a Pension may be setled on him, by 14 *Car.* 2. So they may give an allowance to the Orphans and Widows of such Souldiers and Mariners, till the Sessions, that a Pension be setled out of the County-stock.

14. Any two Justices may call any of the old Treasurers, that were for the maimed Souldiers, to an account, and force them, their Executors, or Administrators, to pay the money in their hands, to the present Treasurers, upon 14 *Car.* 2.

To make a Rate.

15. Any two Justices (next to the place where a poor Mariner or Souldier that is come from beyond Sea to his place of Settlement, and can get no work) are to take order to set him on work, and to tax the Hundred for his Relief, till he can have Work, upon 39 *Eliz. Chap.* 17.

Canon to Justices.

16. Two Justices, *quorum unus*, may send to *Bridewell*, or Common-Gaol, such idle Poor as will not work, being thereunto appointed by the Overseers, upon 43 *Eliz.* But there is no way of Conviction of them set down by that Statute. And therefore we conceive it safest for the Justices to do it in the Quarter-Sessions.

17. Any two such Justices may compel any others of the Parish, besides the Overseers of the Parish, that have any of the stock in their hands for the poor, to pay it in to the Overseers, *sub pœna* 20 *l.* upon 43 *Eliz. Chap.* 2.

To discharge an Apprentice, Souldiers and Mariners.

18. There must be four Justices to discharge an Apprentice of his Apprenticeship, by 5 *Eliz.* And so it seems it may be done out of Sessions.

Sess. 20.

19. Any two Justices may take order to set on work Souldiers and Mariners that come from Sea, that

that cannot get work where they live; one Justice may licence a Labourer to go in Harvest out of one County into another to work, but not to beg.

Licenses by a Justice to beg. Such as go to Bath.

20. Any two Justices may licence poor people to go, and to be for a time at the *Baths*, for the cure of their Diseases, but not to beg, and therefore they must be provided for their Journey, by 39 *Eliz.* 4.

Seafaring man suffering shipwrack.

21. A Seafaring man suffering shipwrack, not having to relieve himself, any Justice near the place of his landing, may give a Testimonial under his Hand and Seal, declaring the time of his landing, and the place to which he is to go, and the time in which he is to go it; and in that time and way he may beg, and perhaps the more freely, if he be licensed by a Justice, to whom he doth make his poverty known, having not to bear his charges home, by 39 *Eliz. Chap.* 4.

Money given to put Children Apprentices.

22. If any money be given, to put out poor Children Apprentices in the place, the parties trusted with it, are yearly in the *Easter-week*, or within a moneth after, to account before two or more of the next Justices, which they may take. And for this it is to be known, that by the Stat. of 3 *Jac. Chap.* 3. That where any money is so given, it is to be employed out of Corporate places, by the Minister, Constables, Church-Wardens, and Overseers of the Poor, who must look to it, under pain of five Marks. But see further in the Statute, how it is to be disposed.

Constables, Church-wardens, Overseers of the Poor.

Sect. 21. About a Bastard-Child.

23. The two next Justices (*Quorum unus*) may take order, as well for the punishment of the Mother, and reputed Father of a Bastard-Child, as for the relief of the Parish where it is born, by charging

charging the Mother and Father with the payment of money weekly, towards the keeping of it, or otherwise. And if the Mother or Father perform not the Justice's Order therein, they are to suffer Imprisonment without Bail, except he or she give security to perform it, or else to appear at the next Sessions, and abide the Order of the Justices there, if any be there; if any be not, the Order first made, 18 *Eliz. Chap.* 3. And all Justices within their Limits and Sessions, may do all that concerns Bastards, that by the Justices in the Counties are limited to be done by 18 *Eliz. Chap.* 3. For the further opening whereof, and of the Justice's power out of the Sessions, take these things.

1. That any two such Justices, for relief of the Parish, and Bastard, safety of both, and punishment of the Offenders, may without any reference from the Justices of the Sessions, of their own heads, make this Order, and one Justice alone cannot do it. And some make a question, whether it may be done by more then two Justices; therefore it is safest to do it by two Justices only. See *Still's Rep.* 252.

2. The question must be about such a Bastard-Child, as is like to be a charge to a Parish, and not the Child of such persons as are able to keep it, *Cro.* 1. part, 315.

3. The Justices, for the better discovery of the matter, may upon Oath examine the Mother her self concerning the reputed Father, the time, &c.

4. The Order may be made by any two Justices of the County, *quorum unus*; but more properly and conveniently, by two of the next or neatest Justices, *Steel's Rep.* 154, 245, 246.

5. This Order must be made at a private Sessions,

ons, and not at the publique Seſſions; for if ſo, it is void, and all the Proceed thereupon illegal, *Stile's Rep.* 475.

6. It muſt be about a Baſtard-Child; And therefore an Order made in theſe words, That he ſhall keep his reputed Child [not expreſſing whether it be a Baſtard-Child, or not] is held naught, *Stile's Rep.* 154.

7. It muſt be made againſt the perſon that is ſuſpect to have the Baſtard-child, and not another. And therefore an Order made by Juſtices, That another man ſhould contribute to the half charge of the keeping of the Child, becauſe he had ſuffered a Souldier to get it upon his Maid, was held not good, *Steel's Rep.* 267.

8. The Order muſt be purſuing the Act of Parliament, to this effect, To ſave the Pariſh harmleſs, or to ſecure it from the charge of the Child, or to keep the Child, And therefore it hath been ruled, That an Order to pay money weekly, towards the keeping of it, is not good, *Steel's Rep.* 14. 386.

9. The Security muſt be given to the Pariſh, where the Baſtard-Child is born; and it muſt be a Pariſh within the County, wherein the two Juſtices have power.

10. The Order muſt be certainly made, how long the reputed Father muſt keep the Child, ſecure the Pariſh, and the like; or elſe it will be void; and being removed into the *Kings-Bench*, will be quaſht for inſufficiency, *Steel's Rep.* 154.

11. The Juſtices having made this Order, the Parties concerned in it, are either to perform it; or if they do not like it, they may appeal from it to the next Seſſions; but then they muſt enter into a

Re-

Recognizance there, and then to appear. A this must be in the disjunctive thus, To abide Order made by them, or to appear at next Qu ter-Sessions, and abide the Order there; othe wise it is not good, *Bulstr.* 1. Part, 243. And if th refuse either of these, the same Justices may se them to Prison, till they do one of them, *Hamond* Case, *Mich.* 3 *Jac. B.R.* And this *Mittimus* m be by one Justice; but he must herein be sure t pursue the Statute.

12. That when this Order is made, the Just ces out of Sessions can do nothing else in it; tha what is before set down, but what is set down i the Act of the 18 *Eliz. Chap.* 3.

13. It is made a question upon this Law, Whe ther the Justices may examine upon Oath. And as to this, we conceive, That they may, if they please, examine without Oath, and thereupon ground their Order, and this will be good enough; or, perhaps, they may examine upon Oath: for this matter being about Incontinency, it is within their Conuzance, wherein they do take Informations upon Oath, to bind to the Good Behaviour. For the power to send the Woman to the House of Correction, is only in the Sessions, by 7 *Jac. Chap.* 4. And therefore could not be intended by 18 *Eliz. Chap.* 3. And we conceive, that no punishment can be intended thereby, but the binding of them both to the Good Behaviour, and to appear at the Sessions; which, for Incontinency, they might do by the Common-Law.

14. Any one Justice, upon his own discretion, may, before the birth of the Child, bind the reputed Father of a Bastard-child to the Good Behaviour, to the end, he may be forth-coming, when it shall

shall be born. And so he may do after it is born, *Lamb.* 122.

15. There is power given by 14 *Car.* 2. to *London* and *Westminster*, and the Burrows, Towns, and places, in the County of *Middlesex* and *Surry*, within the Parishes mentioned in the Weekly Bills of Mortality, to erect a Corporation or Corporations, Work-house or Work-houses, to execute the powers of that Act. *Sect.* 38. Corporation for *London* and *Westminster*.

The Justices for the Counties of *Middlesex* and *Surry* respectively, at their Quarter-Sessions, to choose out of the most able Free-holders, and Inhabitants of those Countries, the President, Deputy-President, Treasurer, and Assistants for the Corporations, there to be erected, successively.

The Justices are at every Quarter-Sessions, to require and take an Account in Writing, of the Receipts and Disbursements of such Treasurers; and what Stock there is; how the Poor are ordered there.

The Heads of these Corporations may apprehend Rogues, and set them to work, and send their Names to the Privy-Council, who are fit to be transported to the *English* Plantations; and with the approbation of the Privy-Council, or two Justices, may send them away thither for seven years to serve there.

If there be a want of Stock in either of the Corporations; the Common Council of *London* for *London*; the Justices at a Quarter-Sessions, for the Burroughs; and for the City of *Westminster*, the Justices of *Middlesex* and *Surry* respectively, (at their Quarter-Sessions) may raise money by a Rate upon the County, not above one years Rate to the Poor. See divers other things

things concerning the same, in 14 *Car.* 2.

Nothing of this Statute of 14 *Car.* 2. is to prejudice any Franchise of the Dean and Chapter of *Westminster*, that he hath formerly had granted him by any King or Queen.

And this Statute is all of it, But for the Corporation in *London* to continue till the 29th. of *May*, 1655. and to the end of the first Session of the next Parliament following, and no longer. 14 *Car.* 2.

Nothing in 14 *Car.* 2. is to prejudice any Franchise the Dean and Chapter of *Westminster* hath formerly granted to him by any King or Queen. 14 *Car.* 2.

The Statute of 14 *Car.* 2. about the Poor and Rogues, all but what doth concern Corporations, to continue but till the 29th. of *May*, 1655. and to the end of the first Session of Parliament, then next following, and no longer.

By 14 *Car.* 2. *Chap.* 9. It is provided, for Relief of maimed Souldiers and Mariners, who served the late and the present King in the late Wars, and the Relief of the Widows and Orphans of such as have died, or been slain in that Service. That every Parish be charged weekly to pay as much as was charged upon it, by 43 *Eliz. Chap.* 3. and further, as the Justices of the Peace in their Quarter-Sessions shall think fit, so as it exceed not 3 s. 6 d. nor be less then 3 d. a Week upon a Parish, to be levied as the former Rate was levied, to be paid and issued forth, and accounted for as the former Rate. And for their Relief, they are to go to the place where they were last settled, before they took up Arms, with a Certificate of their Service, and go to the two next Justices there, and they will pro-

vide

vide for them by the Treasurers of maimed Souldiers; So for their Widows and Children.

CHAP. XVIII.

Of Rogues and Vagabonds, and idle and disorderly persons. Of Bridewell, *upon* 43 Eliz. Chap. 7. 39 Eliz. Chap. 4. 17. 1 Jac. Chap. 7. 7 Jac. Chap. 4.

Sect. 1. Rogue, who?

FIrst, The Rogue is not one that begs in his own Parish, nor one that wanders into the next, but doth not beg there: But he is an idle dissolute person, Man or Woman, Sole or Covert, being above seven years of age, that wanders from his usual place of abode abroad, every where begging, (or such as beg in another Parish then their own) or, if not begging, yet he wanders and loyters abroad without a lawful Pasport, and can give no good reason for his Travail, to satisfie a Justice of Peace. So Scholars and Seafaring-men that beg, wandring persons that use unlawful Games and Play; Fidlers and Minstrels that shall be playing, or offering, or desiring to play in an Inn, Alehouse, or Victualling-house, albeit they do not beg. So Souldiers and Mariners that have Pensions, and yet beg. Such as feign themselves to have skill in Physiognomy, Palmestry, or the like. So counterfeit *Egyptians*, Labourers that wander, and refuse to work for the Wages reasonable assessed, having nothing else to maintain them.

Such as being got out of Gaol, go about begging for Fees, or pretend losse by Fire, Joglers, Fortune-tellers, wandring Pedlers, Tinkers, Glasiers,

men, petty-Chapmen, Proctors, Patent-gatherers (unleſſe it be for Fire) Collectors for Gaols or Hoſpitals. So alſo Fencers, Bear-wards, Common-Players of Enterludes and Minſtrels, wandring about, are accounted Rogues, and ſo to be dealt with as Rogues. There are alſo divers others that are to be accounted, dealt with, and puniſhed as Rogues; As thoſe that are ſick of the Plague, and wilfully go abroad in Company againſt the Officers Command: ſuch as run away, or threaten to run away from their charge, and to leave them to the Pariſhes. Servants that go out of their Pariſhes into another Pariſh to ſervice, without a teſtimonial, or with a forged one. So he that ſhall go with his Paſs-port alone without a Guide; yea, it is held by ſome, that no ſuch perſon may now go with ſuch a Paſs-port, and that all Paſs-ports are void. So he that ſhall go with a general Paſs-port, and not from Pariſh to Pariſh, 1 *Jac.* 31.

So a Rogue that hath been puniſhed, and ſent away, and ſhall not purſue the directions of his teſtimonial, or ſhall beg: Such as go to, or from Bath, and do not purſue their Licence: ſo Souldiers and Mariners, that beg and counterfeit a Certificate of their Commanders, and ſuch as have Licence from the Overſeers, to beg in their own Pariſh, and beg elſe-where: all theſe are to be puniſhed as Rogues: So a Pedler, that ſhall go about with Wares in his own Countrey, and ſell them out of Fairs or Markets, *Cro.* 2. 577. ſee for theſe things, 39 *Eliz.* chap. 4. 17. 43 *Eliz.* chap. 2. 1 *Jac.* chap. 7. 21 *Jac.* chap. 28. 7 *Jac.* chap. 4. 5 *Eliz.* chap. 4. And theſe are to be whipt, paſſed, and diſpoſed of, as is hereafter ſet forth. In Sect. 2.

But

But a Child under the age of seven years, cannot be a Rogue, Resolved by the Judges. And if the Parents be not Rogues, the Children cannot be accounted such, unless they beg and become Rogues. And a Servant out of his time, that lives or wanders about idly. And such as beg only in their own Parish, or wander into the next, but not beg there; and such as have able bodies to work, and nothing to live by but their work, and do not wander, but refuse to work, or to work for the wages assessed, disorderly persons; these, and all such like as these, are not as Rogues, to be sent to their place of birth, or last dwelling. So he that is found in a privy search suspected, such as being of able bodies, run, or threaten to run from their Parishes, such as being allowed by Officers to beg, exceed their Licence.

All these, and such like, are not to be whipt, and sent to their place of Birth, but these are to be sent to their place of dwelling, if they have any; if not, where they last dwelt for a year; for no man but the Vagrant Rogue is to be sent to the place of his birth, or last habitation.

But these are to be sent to the House of Correction onely. And such a wandring Souldier or Mariner as is a Felon, by 39 *Eliz.* chap. 17. is not to be dealt with as a Rogue. See Sect. 5. afterwards. Felon.

2. He must not then be sent to the House of Correction, but must have a Passe or Testimonial, under the Hand and Seals of one Justice, or under the Hands and Seals of the Minister, Constable, and one of the Parish besides, or any two of them, setting forth the time and place of his Correction, together with the place to which he is to go, which way, and the time wherein he is to go. Passe or Testimonial. *Sect.* 7.

But if this Offender be brought to a Justice of Peace, we do not think it to be needful, that he should order this Correction; for the Officers may, and ought to do it of their own accord, without the Justice of Peace his Warrant.

3. With this Passe, he is to be sent and conveyed from Parish to Parish, by the Officers thereof, the next way to the Parish where he was born, if it may be clearly known by his confession, or otherwise: if not, then to the Parish where he last dwelt be[illegible] ishment, by the space of one year: or [illegible] can be known) then to the Parish there which he last past without punishment. And the Officer thereof shall carry him to the Correction-house, or Common-Gaol, where he is to be till he be placed (if able) in Service, if otherwise, in an Alms-house, *Resol. of Judges*, Sect. 714. *Buls.* 2. 258.

4. If he be sent to the place of his last Habitation, because the place of his birth cannot be known, if afterwards the Parish can discover the place of his birth, and he confess it, the Parish may send him thither. As if he shall say, the place of his birth is at D, (and it cannot otherwise appear) and that his last place of habitation was at S, and he being whipt, is sent to S, and then it is known, and he confesseth the place of his birth was at W. In this case, he is to be sent to W. without any new vagrancy, *Resol. Judges* in 1631. Sect. 36.

He is to be sent the next straight way, and is to be conveyed from Constable to Constable, from Parish to Parish, by his Passe, to the place appointed, and there tendered to one of the Overseers of the poor, or Church-wardens of the place.

6. He

6. He is not to be relieved, but by them that convey him, and therefore if any Alehouse-keeper lodge him, or other give him at his door, he forfeits 10 s.

7. Every one that seeth a Rogue begging, is to cause him to be conveyed to the Constable, under pain of 10 s. to be levied and imployed as the forfeitures, upon 39 *Eliz.* chap. 4. And if the Constable or Tythingman do not punish him, being brought to him, he forfeits 20 s. to be levied and imployed in the same manner as the last, by 1 *Jac.* chap. 7.

8. If any Constable or Tythingman shall neglect his duty in the apprehension, punishment, and conveying of such a one to the place of his birth, &c. he shall forfeit 10 s. And any other that shall disturb the execution of this Law, in the punishment, or conveying of Rogues; as if Constables shall not receive or passe them from Parish to Parish, or the Church-wardens and Overseers of the place of settlement, refuse to receive them, or the like; or in the relief or settlement of poor impotent persons, or shall rescue such a Rogue or person to be setled, he forfeits 5 l. by 39 *Eliz.* chap. 4.

9. The substance of the Testimonial for the Rogue, is to be registred by the Minister in a Book provided for that purpose, *Sub pœna* 5 s. by 39 *Eliz.*

10. None may transport such a Rogue out of *Scotland*, *Ireland*, or the *Isle of Man*, born there, under pain of 20 s. And if any such be found in *England* or *Wales*, they shall be sent back.

11. And none but a Rogue is thus to be used. Nor is any Rogue to be used otherwise; for he is not to be sent to the house of Correction, *Resol.*

Judges. Whither, and for the place to which such a person is to be sent, see before in settlement, chap. 17. Sect. 12.

12. Those that are to be sent to *Bridewell* to be whipt, and set on work there, they are to be conveyed by the Constables, at the charge of the Hundred. But the Rogue, whose place of last dwelling, or birth, cannot be known, is to be passed thither by the Officer of the Town, through which he last passed unpunished, *Cook* 2. part, *Instit.* 730. 39 *Eliz.* 4. But no Rogue upon his first apprehension, and for wandring onely is (as it seems) to be sent to *Bridewell*; but to be whipped, and passed to the place of his birth, *Bulstr.* 2. 358.

Incorrigible Rogue, who. And how to be dealt with.

An Incorrigible Rogue is said to be such a one as doth appear to be dangerous to the people, that doth offer violence or threatning Speeches to them, that will not leave his roguish life, but either being punished and sent home, doth rogue again, or affirmeth, that he was born or last dwelt in such a place, which is after found false, and that it was in another place. Or being able to work, doth run away from his Family, and leave it to the Parish.

In the Sessions.

Such a Rogue is in the Sessions to be burnt on the left shoulder with an hot Iron; and from the Sessions, to be sent to the place of his habitation, and from thence, to *Bridewell*, by 1 *Jac.* chap. 7.

Felon.

And if he offend so again, he is to suffer as a Felon.

Transportation.

Or in the Sessions, they may order the transportation of him to any of the Plantations beyond the Seas, by 14 *Car.* 2.

But one Justice may secure him, till two Justices may send him to Gaol, or to *Bridewell*, by 7 *Jac.* 4. 39 *Eliz.* 4. And for this, there must be

two

two Justices, *Quorum unus*, to do it. And yet there is no way to convict him by those Statutes. See more afterwards. Sect. 4. Out of Sessions.

The House of Correction, is a House appointed by Law, to be set up and continued in every County, for restraint and punishment of Rogues, Wandring, idle, and disorderly persons, who are to be sent thither, and there kept on work. House of Correction, or Bridewell. *Sect.* 3.

For this onely is to be known. 1. That the Justices of every County are to erect and maintain such houses for this use, as they see cause, and order the same; for which, see Sect. 4. afterwards.

The Forfeitures of 39 *Eliz.* 4. that are not thereby directed to be otherwise imployed, shall go towards the maintenance of the house of Correction, or to the poor of the place where the offence is committed, as the Justices shall appoint, by 34 *Eliz.* 4. See Sect. 4.

6. As to the Justice's Power, in and about the House of Correction, and Rogues, and such like persons to be sent thither by the Sessions, these things are to be known. The Justices power in these things at their publick Sessions.

1. That the Justices of every County and Corporation, may (in their Sessions) give order for the erecting of such a House, or Houses, and for the maintainance and government thereof, and for the punishment of Offenders, which shall be thither committed, by 39 *Eliz. Chap.* 4. 7 *Jac.* 4. And at the Session they are to order the remove, change, or punishment of the Governour, as they have cause, and shall think fit, 7 *Jac.* 4. They are (in the Sessions) from time to time, to appoint Governors of the said Houses, to set Rogues and idle persons to work, and to punish them by moderate whipping, or puting Fetters or Gyves upon them, by *Sect.* 4. For erecting and ordering of Bridewell.

2. These Governours shall have so much yearly allowance, to be paid quarterly for this, as the Justices in Sessions shall appoint: And this to be paid by the Treasurers of the County, they giving Security for their continuance in the Service, by 7 *Jac. Chap.* 4.

3. If these Governours do not every Quarter-Sessions, give to the Justices a true account of all such as are committed to their custody, or suffer any such to escape, or to be troublesome to the Countrey, by going abroad, or otherwise, the Justices may Fine them here in Sessions at their discretion. And these Forfeitures are to be paid to, and accounted for by the Treasurers of the County, by 7 *Jac. Chap.* 4. The Justices of Peace in their Quarter-Sessions, have power to dispose of such Vagrants as are sent to *Bridewell*, and to send and commit to *Bridewell* all Rogues, Vagabonds, wandering, idle, and disorderly persons. And in particular, the persons, and in such sort as is hereafter following.

About a Rogue.

Sect. 5. 1. Such as have able bodies to work, and have nothing to live by but their work, and yet refuse to work, or to work for the wages assessed, or for reasonable wages, 39 *Eliz.* chap. 4. 43 *Eliz.* chap. 2. 7 *Jac.* chap. 4. But a man that hath an estate to live by, may not be forced by them to work, or sent thither, because he refuseth to work, *Coke* 4 part, *Institutes* 730. And he that hath nothing but his work, and is idle, is not to be sent to his place of birth, but to the house of Correction.

2. The persons before-mentioned in Sect. 1. in the Description of a Rogue, what he is, that are not to be past to their place of birth. Such Parents as are poor, and will not suffer their Children to be

bound

Apprentices by the Overseers of the poor: as being bound, will not suffer them to serve out their time, or raise them out of their Service, *Resol. Judges* 1633. Sect. 3.

3. But such a one as hath had a Bastard-Child, able to keep it, is not so to be dealt with. But one that hath had a Bastard-Child like to charge the Parish where it is, she is to be sent thither to be set on work a whole year. And if she so offend again, she is to be sent thither again, there to remain, till she put in Sureties for the Good Behaviour, and not to offend so again, 7 *Jac.* chap. 4.

4. Such a Man or Woman, that is able to work, that shall threaten to run away, and to leave his Family upon the Parish, he is to be committed thither, unless he give Security to save the Parish harmless, by 7 *Jac.* 5.

5. Such as by 5 *Eliz. Chap.* 4. ought to live in Service, and are out of Service, and have been warned by two Justices, to put themselves into Service by such a time, and do not: *Resol.* of the Judges.

6. The Alehouse-keeper, that after he is once convicted thereof, shall sell Ale the second or third time, by 7 *Jac.* 4. 3 *Car.* 1. *Chap.* 3.

7. He or she that is out of service, and hath not visible means of his own to maintain himself, without his or her labour, and to refuse to serve as a hired servant by the year: *Resol. Judges*, 1633. *Quest.* 17.

8. He that is brought up in Husbandry, or a Maid-servant brought up in any of the Trades mentioned in the Statute, who hath not any visible means to maintain her self, otherwise than by her work, that is warned by two Justices to put him, or her self, into service, or to work by the day, and doth not so: *Resol. Justices*, 1633. *Sect.* 17.

9. The

9. The Rogue, whose place of birth, or last dwelling for a year, cannot be known, as where he shall refuse to tell the place of his birth, or settlement, or shall name a false place; *Resol. Judges.* 1633. But otherwise, a Rogue is not to be sent hither; for this is specially prepared for the Poor of the Parish, who refuse to work; there they are to be whipt, and set on work; and a Rogue is to be whipt, and sent to the place where he was last setled; if it can be known; otherwise, to the place of his birth, or last habitation. *Resol. of Judges, & Worcester Assises,* 14 *Car* 2.

Rogue.

10. And finally, any other disorderly person whatsoever, albeit he have means to live by. But this disorder must be in something else, and not about his idleness or work. All these, and such like, may by the Justices, at their Quarter-Sessions, be sent to *Bridewell*, to be whipt and set on work.

11. All those that may be sent thither, must be convicted of the Crimes for which they are to be sent thither; & there must be a way for it, & in most of them it must be by Indictment, & cannot be otherwise; & therefore the work, in those cases, may not be done, but in the Quarter-Sessions. See 39 *Eliz.*

12. A wandring Pedler, that carryeth about Wares to sell in private houses, and not in Markets and Fairs, albeit it be in his own Country; or any other person, before described to be a Rogue, may be indicted, and punished for a Rogue in the Sessions. See 5 and 6 *Ed.* 6. 21. 14 *Eliz.* 5. 39 *Eliz.* 4.

13. And so for such a person, a Justice of Peace, if (upon examination) he shall find he can give no good account of his life; it seems very reasonable, and according to Law, that he may put him to give Sureties for his Good Behaviour, and to appear at

Out of Sessions.

Sessions

Sessions, or send him to Gaol. And were this course taken, there would be fewer Vagrants in the Country.

14. In the Sessions, the incorrigible Rogue is to be punished, by burning on his left shoulder with an hot Iron. And for his second offence, as a Felon; and to be transported, if this be to be done, 1 *Jac. Chap.* 27. 14 *Car.* 2. In the Sessions. Incorrigible Rogue.

15. Here also in Sessions, such Souldiers and Mariners, as wander without a Testimonial of some Justice, and will not settle to work, or shall counterfeit a Testimonial, or do any thing against 39 *Eliz. Chap.* 4. these may be proceeded against as Felon. See the Statute at large.

And here the Justices are to punish the neglect of Officers, in their duty about Rogues, and other that hinder the execution of the Statute about Rogues, 39 *Eliz.* 4. 1 *Jac.* 7. 7 *Jac.* 4.

Sect. 6. What the Justices have to do out of Sessions.

The power of the Justices out of Sessions, about Rogues, idle and disorderly persons, lyeth in these things.

1. Any two Justices, *quorum unus*, may hear and determine any offence in the Act of 39 *Eliz. Chap.* 4. And therein, it seems, the Confession of the Offender, or proof by two Witnesses, will be a sufficient Conviction. And thereupon the same Justices may, by Warrant under their Hands and Seals, by way of distress and sale of goods, cause the forfeitures within the Statute to be levied, by 39 *Eliz. Chap.* 4.

2. The two next Justices may send to the House of Correction, the person that hath had a Bastard-child, that may be chargeable to the Parish, there to be set a work for a year; but the Child must be born, and living, or she may not be so punished

nished, upon 7 *Jac. Chap.* 4.

3. Such Poor as have able bodies to work, and nothing but their work to live by, and do not work in their daily Trade, and they have work provided by the Overseers of the Poor; it is said, that any two, or more of the Justices, may commit such person to the Gaol, or to *Bridewel*, by 43 *Eliz. Chap.* 2. But here is no way of Conviction of the Offence set down. And therefore we cannot see how it can be done out of the Sessions. So it is said for such Poor as beg beyond their Licence; such Labourers as can work, and will not work for the Wages appointed, and some others, that the Justices may send them to *Bridewell*. But we cannot see clearly how it is grounded otherwise, than upon 7 *Jac. Chap.* 4. That if Constables shall neglect to convey safely all such Rogues, with all other idle and disorderly persons, &c. as by the Justice's of Peaces Warrant shall be sent to the Houses of Correction, &c. that then they shall forfeit, &c. By which is implyed, that the Justices might and do send such persons thither. But this must refer to the Cases, in which they are by other Laws empowered to send them thither. This therefore however, may not safely so well be done out of, as within the Sessions. See 39 *Eliz. Chap.* 4. 7 *Jac. Chap.* 4. As to the Warrants then, and some of the *Mittimus*, in the former Works put forth, referring to these matters, which are contrary to the Cautions herein given, we do, upon better consideration, utterly dislike them, and advise the Justices of Peace not to use them.

Caution to Justices.

4. That where a Constable is put to charge, by the Relief, or the Conveyance of a Rogue by a Pass; he, with the Church-Wardens, Overseers of

of the Poor, and some of the Inhabitants of the Parish to raise it; and therein may rate all such as are liable to the Poor, 44 *Eliz.* And this Rate any two Justices may and must confirm, and give to the Constable their Warrant to levy it by distress, and sale of goods, rendring to the Parties the over-plus. And herein the Constable is to pay himself, upon 14 *Car.* 2.

5. Any one Justice, upon his own sight, may cause a wandring Rogue to be whipt, and passed to his place of birth, by 39 *Eliz. Chap.* 4. and 1 *Jac. Chap.* 7. But this may be done without him. And if he be brought to a Justice, by an Officer, or other, the Justice need not to order his Correction; for the Officer of his own head and authority may do it, and he is punishable if he do it not. But there must be two Justices, to send away a Rogue, that shall falsifie the place of his birth.

6. There must be two Justices (*Quorum unus*) to appoint a privie Sessions, and this must be twice a year, and to send their Warrant to the Constables, and to command a privy search three or four days before the meeting, and to apprehend, and bring before them, all suspicious persons; and to command all the Constables of Hundreds to be then there, and to command the Constables of Parishes to present upon Oath, under the Ministers hand, what Rogues they have taken, punished, and sent away, and to set a Fine of 40 *s.* or under, upon any of the same Constables, for not appearing before them: or for not making of a Return or for not executing of their Warrant, or for not executing of the Justices Warrant at any other time, in the convey of Rogues to *Bridewell*, upon 7 *Jac. chap.* 4. 21 *Jac. ch.* 28. But herein is no way of Conviction,

Privie Sessions.

To be dont in Sessions. Caution to Justices.

viction, or Levie of the money set down, and therefore this is best to be done in Sessions.

7. There must be two Justices, *Quorum unus* that by the Stat. of 39 *Eliz. chap.* 4. by Warrant under their Hands and Seals upon the confession of the offence by the party, or proof thereof by two Witnesses, may give power to levy by distress and sale of goods the forfeitures, within that Statute, *viz.* the 5 *l.* upon the Minister, for not keeping a Register-Book, the 10 *l.* upon the Constable, for his neglect in the apprehension and punishment of Rogues, the 20 *l.* upon him, for his not punishment, and for the not safe convey of him (being brought before him) by another; the 10 *l.* of another man that is no Officer, that doth not apprehend a Rogue begging at his door, or that shall bring a Rogue out of *Ireland* hither.

8. So also, there must be two Justices, that upon the like Conviction, may cause to be levyed by distress and sale of goods, the 5 *l.* Forfeiture, and bind to the Good Behaviour such as disturb the execution of the Stat. of 39 *Eliz.* As Officers, that shall send a Rogue by a general Pasport, or that shal refuse to receive a Rogue, when he is brought to them; or that shall shift him away; or that shall not bring him to the next Parish.

9. So likewise, there must be two Justices, that upon the like Conviction may give Warrant to levy by distress, and sale of goods, the 5 *l.* Forfeiture, upon other persons that are not Officers, that shall shift away, or rescue a Rogue; or such as shall hinder the setlement of a Rogue; or that when he is duly setled in any place, shall remove him without Authority. But the Statute being penned thus, That if the offence shall be confessed by the Offender,

Caution to Justices.

Offender, or be proved by two sufficient and lawful Witnesses, not saying, what Proof it shall be; nor giving power to two Justices, to take the Confession by such Proof: it seems not safe therefore for the Justices to do it out of Sessions, but rather in the Sessions. But where it is done, upon the Confession of the Offender, there the Case is more clear.

10. There must be two Justices upon proof, before them of two Witnesses upon Oath, that he or she hath threatned to run away, and leave his Family, upon the charge of the Parish, that may send him to the House of Correction unless he can put in sufficient Security to discharge the Parish, upon 7 Jac. chap 4. Sect. 6.

11. Any one Justice, to whom a Rogue shall be brought, hath power to reward the person that doth apprehend him: And for this may send his Warrant, under his hand and Seal, to the Constable or Tithing-man of the place, through which he did pass unapprehended, to give him 2 s. for every Rogue so taken; the which, if he do not give him, that Justice may proceed against the same Officer, upon 1 Jac. chap. 7. and out of the Forfeiture of the Constable for that neglect, give to the party that apprehended the Rogue, what allowance he thinks fit. And if one shall take a Rogue going out of one into another County, who had passed through a Parish of the other County unapprehended, he may go to any Justice of the County through which he passed, and the Justice is then to give him a Certificate of it, and a Warrant under his Hand and Seal to the Constable of the place he went through, to pay him 2 s. the which if he do not pay him, then he may proceed against him for the 10 s. upon the

To make a Certificate.

the Statute of 39 *Eliz.* chap. 4. 14 *Car.* 2.

Incorrigible

12. Any one Justice may secure an incorrigible Rogue brought before him. But there must be two Justices, and one of the *Quorum*, to send to the Goal, or to Bridewell, an incorrigible Rogue till the next Quarter Sessions, upon 39 *Eliz.* chap. 4. And yet in this also, The Justices must be sure he is an incorrigible Rogue, and he must be then in his presence; for the Justice hath no power, or way given or prescribed, to convict him hereof.

Mayors, &c.

13. The Justices are not to meddle within Corporations, but the Officers there shall use the same power as the Justices within their limits, 39 *Eliz.* chap. 4. nor alter the power of the City of *London* in St. *Thomas* Hospital in *Southwark*, or to prejudice *John Duston* of *Duston* in *Cheshire*.

CHAP. XIX.

Of High-wayes, Bridges, Sewers, and Streets, upon Statutes of 2 *and* 3 Phil. *and* Mar. *chap.* 8. 5 *Eliz. chap.* 13. 18 *Eliz. chap.* 10. 14. *Car.* 2. 15 *Car.* 2. *Chap.* 6.

AS to the High-wayes, Bridges, Sewers, and Streets; these things are to be known.

Sect. 1. As to the making, & choyce of Surveyers, Constables & Church-Wardens, & Parishioners Duty.

1. That the Church-wardens and Constables, or Tythingmen of every Parish, are upon the *Monday* or *Tuesday* in *Easter* week, (after notice given publickely in the Church the Sabbath day before) after morning Prayer ended, with the advice and consent of the major part of the Parish then present, choose two or more of the sufficient Inhabitants

of the place to be Surveyors [or Supravisors] for their high-wayes for the next year; and give notice thereof to the persons chosen in writing, under pain of 5 l. to be forfeit by the same Church-wardens, Constables and Parish; upon 14 *Car.* 2. due upon 2. & 3. *Phil.* and *Mar.* chap. 8. they may be punished by Fine, or Amerciament in the Quarter Sessions, by the discretion of the Justices.

2. The Constables and Church-wardens are then also to appoint 6 dayes betwixt that and *Midsummer*, for the amendment of the high-wayes, and to give publick notice thereof in the Church; the next Sunday after *Easter*.

3. And the Surveyors are to see that the Parishioners do their work therein accordingly, by 2. and 3. *Phil.* and *Mar.* And these Fines are to be levied and imployed by the High Constable, upon 2. and 3. *Phil.* and *M.* chap. 11.

4. As to the Office and Duty of these Officers thus chosen, it lieth in these following things.

The Power & Duty of the Surveyors.

Sect. 2. To undertake the Office.

1. They are forthwith to take the Office upon them, under pain of 20 s. a piece, by 2. and 3. *M.* 8.

To view the High-wayes.

2. They are within 20 dayes after notice given to them of their Choyce, to view all the high-wayes, and Bridges, Water-Courses, Causeyes, and Pavements there in the Parish to be repaired, and consider what is to be done; and what money will be needful to do it; more than the work appointed by the Statutes to be done; by 13 *Car.* 2.

To raise money by Rate.

3. They with two or three of the more substantial Householders of the place, are within 10 dayes after the Survey of the defaults, to set a Rate upon all the Inhabitants of the Parish, ta-

How the Rate is to be made.

table to the poor, and upon all Occupiers of Land, Houses, Tythes Impropriate, or Appropriate, Portion of Tythes, Coal-Mines, and other Mines, saleable Underwoods, Stock, Goods, or other personal Estate (not being Houshold-stuff) within the Parish (20 l. in Stock, Money, or Goods, to be rated after the Rate of 20 s. a year in Land; and no man to be charged for his Land and Stock, both at once) for the repair of the High-wayes. But this Rate must not exceed in all upon the Pound 6 d. a pound through the year. This Rate must be viewed and allowed, and signed by some one Justice near thereabouts, within six dayes after it is made. And this must be done under pain of 5 l. And the Tenant, and not the Land-lord, is to bear this burden. But where the High-wayes and Bridges of the place will be amended sufficiently by the Ordinary six dayes work, there the Justices may forbid it, by 14 *Car.* 2. But this power is to continue only three years, to raise money by way of Rate, for repair of High-wayes, by 14 *Car.* 2.

4. They are to see the wayes repaired, under pain to be fined by the Justices in their Sessions at their discretion, upon 5 *Eliz.* chap. 1.

To Collect and levy the Money.

5. They are to have, levy, and collect by Warrant, under the Hands and Seals of two Justices, by distress, and sale of Goods, not only the Rates for the High-wayes, but also all charitable Gifts given, or to be given for the repair of the High-wayes, except Gifts made to a College, Hall, Free-School, or Hospital to such uses; and all Fines and Forfeitures, not otherwise disposed of, by 14 *Car.* 2. And all Issues for not appearance upon any Information or Indictment, for not repairing of the High-wayes, and for not removing of Nusances.

and

and all Fines and Amerciaments imposed upon any place or person, for not repairing of these High-wayes. And all these are to be imployed by the Surveyors of the place, for the repair thereof, by 14 *Car.* 2. See 2 and 3 *Phil.* and *Mar.* chap. 1. 5 *Eliz.* chap. 1.

6. They are at any time, between the first of *May*, and the last of *August*, to hire Labourers, Carriages, and what is needful for the amendment of the High-wayes, by 14 *Car.* 2. To hire Labourers.

7. They are to see that every man doth the work that by Law he is appointed to do for his Plow to himself, by 14 *Car.* 2. or be punished by Fine and Amerciament in the Sessions at the Justices discretion.

8. They are to order and direct every man in his work, to be done on the six dayes, where, and how to do it. And they may hire these Workmen longer than their six dayes, if they will; and give them what shall be reasonable, after the Rate of the Countrey, for what they do above their six dayes work, by 14 *Car.* 2. To order the work.

9. If they think Carts to be needless, they may spare them, and requite two men in end of a Cart; and if they fail, they shall forfeit 12 d. for every day that either of them make default, by 2 and 3 *Phil.* and *Mar.* 8.

10. Where the High-way is not of eight yards breadth from the brinck of a Ditch (where Ditches be) or Hedge where no Ditch is, there the Supravisors may enlarge them to eight yards upon the adjacent grounds, by order of the Quarter-Sessions, and by the allowance of two or more Justices appointed by Sessions to view it; and after a Writ of *Ad quod damnum* had, and returned, and such In the enlargement of the high-way.

satisfaction given to the Owner of the ground, which may not be given morethen after the Rate of twenty yeers purchase, by 14 *Car.* 2.

In the taking of stones, gravel, &c.

11. That where want of Gravel, Chalk, Sand, Cinders, or Stones, is within the Parish to repair the High-wayes, the Surveyors, and such as they shall appoint by the allowance of two Justices of Peace, are to dig, and take it out of the Waste, or Common of any neighbouring-place, or upon the Sea-coast, without paying any thing for it, unless there be a Custom to pay for it, so as they fill up the place out of which it is taken, within a moneth, if it be required by the Owner of the ground. And where these materials are wanting, and not to be found in the Commons, or waste grounds of the Parish, the Surveyors, and such as they shall appoint, may dig, and take it out of any mans several ground, near to the High-way (not being a House, Garden, Orchard, Park, Court-yard, Park with Deer in it, or Meadow) where it is to be found, without paying any thing for it, save only the damages he hath by the digging and carriage, as two Justices shall set down, if they cannot agree upon it.

For filling of Pits.

In the Sessions.

Upon 14 *Car.* 2. The hole to be filled up, according to the Statute of 5 *Eliz.* chap. 1. under pain of what Fine the Justices shall set down in the Sessions. They may take for the amending of the High-wayes, so much of the Rubbish, and small broken stones already digged out of any mans Quarry within the Parish, as they need, without the Owners leave; but they may not dig, or take out of any mans Quarry, the stones already digged, or dig for new stones without leave. Also, they may enter into any mans ground, and gather the stones that lie dispersed there. And where no

such

such rubbish is to be found in any such Quarry in place; they may enter into any mans ground near the High-way, where the decay is, where materials are like to be found, and dig a new Quarry without leave of the Owner of the ground. But they may not without leave of the Owner, dig any new Quarry in any mans House, Garden, Orchard, or Meadow; nor where they may dig, may they dig more then one Pit, and the same not above 10 yards in breadth or length, at the most. And then also they must see the Pit be within a moneth after filled up again at the Parish-charge, under pain, to forfeit five marks to the Owner of the ground, 5 *Eliz.* chap. 13.

As to Bridges, this is to known. Bridges.

1. That (of common right) they are to be repaired by the whole County. *Sect.* 3.

2. That if any be bound by Prescription, to the repair of it, they must do this by the Common-Law. Such as time out of mind have done it, they must do it; but a voluntary repair of a Bridge, will not make a man chargeable. And this, if not done, the party may be indicted for it.

3. The Statutes of Q. *M.* and Q. *Eliz.* as it seems, do not extend to common Bridges, *Co.* 2. part of his Institutes 702.

4. The Surveyors are to make upon every Bridge, sufficient Walls, or Posts and Rails of each side, four foot high at least, and to keep the same repaired, by 14 *Car.* 2. About Bridges.

5. If it cannot be known what person, or place should repair it, it may be enquired by four Justices near the place, 22 *H.* 8. 5.

6. A Bridge lying in a Corporation, or Franchise, shall not be charged on the Hundred, or Guildable, *&c. e converso.*

7. If a Bridge lie in two several Counties, or Divisions, both Counties must contribute towards it, *Dalt. Just. P.* chap. 13.



8. They that are to repair a Bridge, are to amend the wayes at the end of it for 300 foot, *Co.* 2. part. *Instit.* fol. 320.

Presentment of Defaults.

13. That they, or one of them, present every default, upon 2 and 3 *Phil.* and *M.* 5 and 6 *Eliz.* chap. 13. within a moneth after it is done to the next Justice of Peace, in pain of 40 *s.* 5 *Eliz.* chap. 13. and to be fined by the Justices at their next Sessions.

To give an Account.

14. That they are to give, and make within a moneth after the end of their year, a perfect Account of all their Receipts and disbursements, and what money is in Arrear for Assessements, Fines, Forfeitures, Penalties, and charitable Gifts, under their hands, to the Inhabitants of the Parish, at a publick Meeting appointed by the Parish, and pay over the overplus of money (if any be) in his hands to the next Surveyors, or may be committed by two Justices, till he do account, by 14 *Car.* 2.

Common Nusances, Hedges, Ditches.

15. That where any common Nusances be in the High-wayes, or Ditches; or the Water-course adjoyning to them, be not scowred and dressed, the Surveyors are to see it reformed in a course of Law, and pay themselves what they lay out therein, out of the common stock, upon 14 *Car.* 2. And if there be any Spring, or water in the High-way that doth annoy it, they may turn the same out of the High-way, into any mans Ditches, according to their discretion. They may also make Sluces, where any Banks have been heretofore cast up at Ditches adjoyning to the High-way, by 18 *Eliz.* chap. 10.

16. The

16. The penalties appointed by 18 *Eliz.* 10. & 3 *Jac.* and 1 *M.* 8. 5 *Eliz.* 13. shall be leyed by the Surveyors *ex officio*, without Warrant, by distress and sale of Goods, and shall be imployed towards the amendment of the High-wayes. And if the Surveyors neglect to do it within a year after the offence committed, the Constables and Churchwardens are to do it.

17. That they are not by these Laws chargeable, to look to the repair of any High-wayes, but such wayes as are called the Kings High-wayes. And so it hath been Resolved by the Judges.

18. That where a High-way is enlarged by addition from other mens ground, there this is to be repaired at the Parish Charge, as the other wayes are repaired, upon 14 *Car.* 2.

Sect. 4.

3. As to every Parishioners Duty herein, these things are to be known, That every Inhabitant is to pay his Rate for his Work. And he that shall not within 20 dayes after demand of it by one of the Surveyors, shall pay twice as much as his Rate, unless upon Complaint made to a Justice, of wrong done to him therein, the Justice shall think fit to order it, upon 14 *Car.* 2. And the Tenant, and Occupier of Land, not the Land-lord, is to bear the Rate towards repair of the High-wayes, by 14 *Car.* 2.

As to the Duty of the Parish, and every man in it.

4. That every man is to see he doth the work appointed by the Statute, as the Surveyors shall order him, unless they shall dispense with any part thereof.

Refusals to work.

And if any man shall not come, or that comes with his Plow to work, and refuse to do the work appointed by the Overseers of the work, he is to forfeit 10 s. a day. And he that comes to work himself, and

and refuseth, forfeits 18 d. a day, by 14 Car. 2.

Who must work every each &c.

3. And it is required, That every person, that hath a Plow-land in Tillage, or Pasture, in the same Parish, or that keepeth there a Plow, or a draught, is to send at the time appointed a Wain or Cart, provided after the fashion of the Country with Oxen, &c. and with necessary Tools fit for the work, and with two able men, and there they are to labour therewith eight hours every day, where and how the Surveyors shall order them, under pain to lose 10 s. for every default. And every Householder, Cottager, and Labourer, (able to work, and no hired Servant by the year) must by himself, or an able man for him, labour there eight hours on every of the same six dayes, where and how the Surveyors for the Amendment of the same ways shall appoint him, under pain to lose 12 d. a day for every default, 2 and 3 Phil. and Mar. chap. 8.

But for the opening of this branch, take these things.

Plow-land, what.

1. That a Plow-land is not of any certain content, but ordinarily it is so much as one Plow may plow in one year, which in some Countries is more, and in some less, according to the heavinesse of the Soil.

2. That so many Plows as men usually have, and use in the Summer about their own businesse, so many they are to bring with them to this work. So that if a man have one Plow, and 5 or 6 Horses, and shall plow 7 or eight score Acres of Arable Land, and shall usually go in the Summer-time with two Carts, or Draughts; in this case, it seems, he is to come with two Carts, or Draughts to this Service. And he that occupieth 40 or 50 Acres of Land, and keepeth only 3 Horses, and one draught or Cart, he is to come with one draught or Cart.

3. That

3. If a man keep onely two Horses and a Cart for his own busines, in this case it seems he is to send with his Cart and two Horses, with a man, or men, to manage them.

4. He that keepeth in his possession, divers Plow-lands in divers places, must in every place where his Land is in his occupation, find a Plow with men for the work.

5. He that occupieth a Plow-land lying in Tillage, or Pasture in several Parishes, shall be chargeable with his Plow, in the place where he dwelleth, as far as one that hath a Plow in one Parish.

6. He that keepeth a Plow, or Draught for Carriage, albeit he occupy little or no Land, or Pasture in his own hands, yet such a one is to send his Plow to the Service.

7. A Plow-land may contain House, Meadow, Pasture, and Wood. And if one have so much of this as will keep a Plow, and yield Tillage for it, if part of it were eased, in this case, it seems, he is to send his Plow.

8. He that hath a Plow-land, and no Plow, but doth suffer his Land to lie fresh, yet he is to find a Plow for this work. And so it hath been agreed by the Judges, *Mich.* 21 *Jac.*

9. If a man be chargeable but as a Cottager, and be set at 5 l. in the Subsidy Book for Goods, not chargeable upon 2 and 3 *Ph. & M.* 8. to the High-wayes, whiles he is at this Rate, he is to send two able men to the work every of the dayes.

10. If the Surveyors shall think any of the Plows or Carts to be needless any of the six dayes, and they shall require two able men instead thereof, they must come under pain of 12 d. a day for every default, 2 & 3 *Ph. & M.* chap. 8. 1 & 8 *Eliz.* chap.

4. The

4. The Lord of a Park that doth inclose, must set out 200 foot on each side from the way, or a sufficient Wall or Ditch, or Hedge, that Robbers may not escape, *Dalt.* Just. P. chap. 96.

5. The High-wayes that lead from Market to Market, ought not to have Dike or Bush within 200 foot on either side, where Thieves may lurk, but they are to cut up the Bushes, under pain to be fined by the Justices at their Sessions, according to discretion, upon 2 *Eliz.* chap. 2. Such as make Inclosures next to the High-way, must amend the High-way next the Inclosure, or it must be amended by the Parish.

For Hedges, and Ditches, and Bushes.

6. The Owners of the Grounds adjoyning to the High-wayes, are to take care, that all the Fences, Hedges, and Ditches next adjoyning on either side thereof, be kept low, and well scowred, and cleared of Bushes and Trees, under pain of 12 d. for every default. And he that hath a Ditch in his Ground that serves to lead away the water from the High-way, must make and keep the same clean, under pain of 12 d. for every Rod unscowred for every default, 5 *Eliz.* chap. 13.

And he that scowres a Ditch by the High-way side, and suffers the filth cast out to lie in the High-way to annoy it six moneths, shall lose for every Load so cast up, and lying, 12 d. And he that shall offend in this, or not scoure his Ditches, &c. and cut down the Bushes in the High-wayes, by the Stat. of 13 *Eliz.* chap. 9. the Forfeitures of these offences may be levied by Warrant to the Surveyors, from the Justices of Peace, before whom they shall be convicted.

Nusance.

7. That if the labour appointed by the Statutes be not sufficient, and the wayes be not sufficiently repaired

required thereby, the Parish is to supply it; for every Parish, at its peril, must keep the high wayes sufficiently repaired. For an Indictment (by the common Law) may be brought and maintained against the Inhabitants of a Parish, for not repairing of their high wayes. And thereupon, the Parish shall be fined at the discretion of the Justices. And this Fine shall go towards the repair of the high wayes, as other Forfeitures and penalties shall do.

The Office of the Justices of Peace. & what a Justice of Peace hath to do herein. Sect. 8.

8. As to the Office, Duty, and Power of the Justice of Peace, and what he may, or ought to do herein, either in, or out of the Sessions, these things are to be known.

That in the General Sessions (z) They may hear and determine all offences, against the common or Statute Law, about high wayes in Officers, by not doing of their duty about repair of them; or others, by not doing of their duty about the repair of them; or by the doing of any thing to hurt them by Nusances, or otherwise. And here they may, as they have cause, make orders for what is within their Conusance, according to Law. And if otherwise, they will be void. As an Order was made to commit the Surveyors, till they payd in the money by them collected for the repair thereof; his Order was ruled to be naught. For there was no power given to commit, and besides, they are to deduct 8d. in the pound. *Steele's. Rep.* 399. where they may determine matters concerning Charitable Gifts for the making, keeping, or repairing of high wayes, Pavements, Streets and Causies, (except gifts made to such uses, to any Colledge, Hall, Free-School, or Hospital) and they may make orders for the right Imployment of such Gifts; but the party grieved by it, may appeal into Chancery.

Appeal.

very. They are to hear and Punish the defaults of the Surveyors herein, by 14 *Car.* 2.

Enlargement of a way.

3. They may order the enlargement of a high way, and for that purpose, that two Justices shall view it, by 14 *Car.* 2.

4. They may here, where they judge the 6. dayes work sufficient to repair the wayes, restrain the making of any Rate in that place, upon 14 *Car.* 2.

Fines.

5. They may here enquire of the breach of any part of the Act of 2. and 3. *Ph.* and *M.* and set Fines on such as make default, according to their discretion. And thereof the Clerk of the Peace is to deliver the Indented Estreats under his hand and Seal, (*viz.*) one to the Bailiff, or High Constable of the Liberty, and the other to the Constable and Church-wardens of the Parish where the default is made, by 2 and 3. *Ph.* and *M.* chap. 8. And these Estreates are a sufficient warrant for the Bailiff, or chief Constable, to levie the same by way of Distress. And if no distress can be found, or the party pay not in 20 dayes after demand, he shall pay twice as much. These Fines and Forfeitures, to go to the amendment of the high wayes. And the Bailiff or high Constable, is to account unto the Constables and Church-wardens, and they may call him to an account before two Justices, upon 2. & 3. *Ph.* & *M.* And two Justices may commit him till he pay in his money.

Estreates Fines.

6. They may here send a Warrant to the Surveyors, to levie by distress and sale of goods, the Forfeitures of all such persons as shall be convict before them, for casting Soil in the high-way out of ditches, and leaving it there, and for

not

not scowring their dithes, and cutting down their bushes, or any other offence, upon the Statute of 18 *Eliz.* Chap. 10. And if upon this Warrant it be not levied within a year, then it seems, they may send to the Constables and Church-wardens to levie; for the Statute gives them Power to levie it.

7. And so they have power there to enquire here, and determine all other of the offences named within 2. and 3. *Ph.* and *M.* 8. 5 *Eliz.* ch. 13. 18 *Eliz.* chap. 10. 29 *Eliz.* chap. 5. *Car.* 13. 13. And now for the Justices Office.

What the Justice hath to do.

Out of the Sessions. 1. They are to allow, and to sign the Rates made by the Surveyors of the high-wayes, for the amending thereof. And this any one Justice of Peace may do.

Out of Sessions. *Sect.* 6. sign the Rate.

2. They are to decide any difference that shall arise between the Surveyors, and any Workmen that they shall hire about wages for their work. And this any one Justice of Peace (not living in the same Parish) may do, upon 14 *Car.* 2.

Decide differences about wages for work.

3. So any difference between any man and them, about the digging and carriage of Gravel, or other materials for the highwayes, out of any mans several Inclosures. And this any two Justices may do, upon 14 *Car.* 2.

About pay for opening a pit.

4. So any that shall arise between them, and any Inhabitant of the Parish about a Rate upon him. And this any one Justice may do, upon 14 *Car.* 2.

About a Rate.

5. They are to view any part of a high-way, as the Justices in Sessions shall order them, whether it be fit to be enlarged, and how. And this any two Justices may do, upon 14 *Car.* 2.

Enlargement of a High-way.

6. They

To dig and take Gravel.

6. They are to allow, the Surveyors of one Parish to dig and take Gravel, Chalk, Cinders, Sand, or Stones, in the wasts or Commons of the neighbour-places, where they want in their own. And this any two Justices may do, upon 14 *Car.* 2.

Call Officers to an Account.

7. Two or more Justices may call any Bailiff of Liberty, or high Constable of a Hundred, that have levied any Forfeitures by Estreates of Stewards of Leets, or by the Sessions, about the high way, and commit them to prison, till they pay the money in their hands, if they have any, unto the Constable and Church-wardens of the place, by 2. and 3. Ed. 6. 8.

Levie of Rates and Fines &c.

8. In 14 *Car.* 2. It is provided, That any two Justices may by Warrant under their Hands and Seals, give powers to the Surveyors, by Distress and Sale of the parties Goods, to levie the Rate for the high wayes, and all charitable gifts for the amendment of the high wayes, and all the forfeitures of the Act of 14 *Car.* 2. not otherwise therein given, and all Issues to be forfeit, for not appearing to an Information or Indictment, to repair to the high-wayes, or removing Nusances therein. And all Fines and Amerciaments put upon any person, for not repairing of high-wayes, not otherwise disposed by this Law; by 14 *Car.* 2.

9. They may upon the complaint of any Parish, that the Surveyors of their high wayes do refuse to account, examine it upon Oath; and if they find it true, commit the Surveyors that refuse, to prison, till they do account. And this any two Justices of the Peace may do, upon 14 *Car.* 2.

10. They may, where they see no cause to make a Rate for the high wayes, but that the six dayes work will be sufficient, forbid the making of a Rate.

And

And this any two Justices may do, upon 14 *Car.* 2.

11. Any one Justice of Peace may cause the high way to be freed of Trees and Bushes, according to the Statute of *Winchester*.

12. Also, any one Justice, may upon his own view, present to the Quarter-Sessions, any default in the high ways. And this will be in the name of an Indictment. As all the Fines upon 2, and 3. *M.* 8. and 5 *Eliz.* 13. are to be estreated by the Clerk of the Peace, levied by the high Constable, or Bailiff of Franchise, and payd over to the Constables and Churchwardens, and imployed to the repair of the high wayes: to which, the party indicted must answer, as upon the presentment of a grand Jury; and being found, any two Justices *quorum unus* in the Sessions, may assess the Fine. So also one Justice may present any man for an offence by him done against any branch of 2. and 3. *Phil.* and *M.* chap. 8. and 5. *Eliz.* chap. 13. As the Constables and Church-wardens for not chooſing of Surveyors, or not setting down the time of the 6 dayes work, or for not giving publick notice thereof in the Church. Or the Surveyors, for refusal to undertake the Office, or neglect about it; and in particular, for not making Presentment to a Justice of Peace, of such defaults as they find upon these Statutes. Or the Parishioners that do not attend to their dayes works appointed them, or such as suffer Nusances in their grounds, hedges, or ditches, near to the high way; or the Bailiffs, or high Constables, for their neglect in the levie of the Amerciaments sent to them by the Clerk of the Peace, against offenders about the high wayes, or for the not making of their Accounts, and the like. And this the Justice may cause the Clerk of the Peace

to

to draw up, and being put in, it is of the same force as if it were a Presentment found by a Grand Jury.

13. Any one Justice may, and must, receive from the Surveyors, or other Officers, any Presentment that they will make and tender to him of any default, upon 2. and 3. *Phil.* and *Mar.* and 5 *Eliz.*

15. And this Presentment he is to certifie to the next Sessions, under pain of 5 l. The Justices are to enquire upon it, upon 5 *Eliz.* ch. 13. And being found set such Fine upon the offender, as any two of them, *quorum unus*, shall think fit, by 5 *Eliz.* chap. 23. And the Fines here assessed are to be estreated by the Clerk of the Peace, levied, accounted, and imployed, as by 2. and 3. *Ph.* and *Mar.* 8. is provided, by 5 *Eliz.* chap. 13.

14. Any one Justice might have enlarged a way, and cleared it of Trees and Bushes; but now one thing is done herein out of Sessions, upon the Statute of *Winchester*, 13 Ed. 3.

About a Bridge:

15. Four Justices *Quorum unus*, and no less, may enjoyn the County to amend a Bridge, or the high way within 300 foot of the Bridge, by a Rate on every man, which must be made by them with the Constable, or two of the Inhabitants of the Parish, and not otherwise, in Parchment in every Hundred, under the Justices Seals, and then delivered to the Collectors, whom they may appoint; and also Overseers of the work. And for the Rate the Collectors may distrain *Ex Officio*, in any place within the Hundred. And this one of them may do by the consent of the other. But no such Rate is to be made, but in case where it is not known who ought to repair it. And those Justices may, or name Officers, so order them, and allowances for their

Sect. 8.

In the Sessions.

their pains in the work, and call them, their Executors, or Administrators to an Account for the money. But the fittest place and way for the doing of this work, is in the Quarter-Sessions. 5 *Eliz.* chap. 13. 18 *Eliz.* 9. 3 *M.* 8. *Cr.* 2. part *Instit.* 8. 705. Call to an Account.

16. Any two Justices *quorum unus*, may enforce, and take the Account of an Officer that hath in his hands any of the Forfeitures, upon 2 and 3 *Edw.* and *M.* about high wayes, and to imprison them who are found upon account to have money in their hands; but if in this case, the Officer be obstinate, it is best to order him in the Sessions. See *Stiles*, *Rep.* 399.

17. No *Certiorari* to remove any Information, Indictment, Presentment, Order, or proceeding about High wayes, is to be allowed in any Sessions, unless the party indicted, *&c.* shall with such Sureties as the Court shall think fit, enter into a Bond of 40 l. with condition to pay the prosecutor the full Cost and Damages, within a moneth after the party is convicted, by 14 *Car.* 2. See. *Popham*, *Rep.* 193.

18. But for the repair of a Bridge, or high-way within 300 foot of it, see more 5 *Eliz.* chap. 13. 18 *Eliz.* chap. 9. and *Coo.* 2. part *Instit.* 701, 22 *H.* 8. chap. 5. By which it is provided. In the Sessions.

(1.) That 4. Justices *quorum unus*, may hear and determine the annoyance of Bridges, and of the high-way adjoyning within 300 foot of them, and charge such as should repair them by sending such process, and setting paine as they think fit.

(2.) That when it cannot be known who should repair it, that it be done by the County, Ryding, or Corporation where it is. And if it be within two

Precincts, the Inhabitans shall repair their several parts respectively.

(3) That for this purpose, these Justices may with the help of the Constables, or other able men of the Parishes, make a Rate as is abovesaid, and cause money to be levied to do it, appoint Surveyors of the work, give allowances for the work &c.

19. See for the Repair of Bridges at *Rochester* in *Kent*, 18 *Eliz.* 17. 27 *Eliz.* 75. Within a mile of *Oxford*, 18 *Eliz.* 20. over *Fosse* in the County *Glamorgan*. 23 *Eliz.* 11. *Newport* and *Carlion* Bridges. 39 *Eliz.* 23. at *Wilton*, 39 *Eliz.* 24. *Eden* and *Presburg*. 43 *Eliz.* 16. *Chepstow* Bridge. 3 *Jac.* 23. *Upton* Bridge. 3 *Jac.* 24.

20. That no travailing Wain, Cart, or Carriage, wherein any Goods or Wares are, or that shall be carried or drawn for hire (other than the Carts and Carriages imployed in and about Husbandry, manuring of Lands, carrying of Hay, Straw, Corn unthreshed, Cole, Chalk, Timber for Shipping, materials for Building, Stones of all sorts, or such Ammunition, or Artillery, as shall be for the King's Service) may travail, or go in any high way or Road, with above seven Horse beasts, whereof six to draw in pairs: and not with above 8. Oxen, or 6. Oxen, and two Horse beasts. Nor shall at any time carry above 2000 weight, between the first of *October*, and the first of *May*. Nor above 5. Quarters of Wheat, Meal, Meslin, Rye, Pease, Beans and Tares. Nor above 8. Quarters of Barley, Malt, or Oats, and after that proportion. Nor may any Wagon, Wain, Cart, or Carriage for the uses aforesaid be used, the Wheels whereof are lesse in bredth then 4. Inches in the Tire, under paine of 40 *s.* to be lost to the owner of the Wain, Carriage, and

and one third part to the Surveyors, to the use of the high-wayes, another third part to the Overseers of the poor, to the use of the poor, and the other third part to the prosecutor: To be levied by distress of all or any of the Horse-beasts or Oxen. And to be distributed by the Constables, Overseers of the poor, or Surveyors of the high-way, or any one of them, and the penalty not payd within 3. dayes after the distress taken, that then he that distrains, may sell and pay himself, rendring the overplus to the owner, charges of keeping and selling deducted upon 14 *Car.* 2. But no power being here given to either of these Officers to distrain, it may be questionable, whether they may justifie the taking of them. And yet power is given to them afterwards to sell the distress, if the money be not payd. But by another clause afterwards, it seems it may be done by a Warrant under the Hands and Seals of two Justices. There is a special provision about a *Foot-Bridge* in *Laycock* in *Wilts.*, by 14 *Car.* 2.

Forfeiture how recoverable.

A Provision for the Farmers of Iton Works in *Surrey*, *Sussex*, and *Kent*. So for *Stratford*-Bridge in the County of *Middlesex*, by 14 *Car.* 2.

There is a provision for *Chepston-Bridge*, by 3 *Jac.* chap. 23.

For the High-wayes in the weild of *Kent* and *Sussex*, by 14 & 15 *H.* 8. chap. 6.

For *Huntington-Lane* near to *Chester*, by 37 *H.* 8. chap. 3. In *Sussex*. 39 *Eliz.* chap. 19. 26 *H.* 8. chap. 7. 15 *H.* 8. chap. 6. Of the Causey between *Dorchester* and *Sherborn*, 1 Mar. Parl. 2. chap. 5. Of the *Kings-Ferry* in *Kent*. 18 *Eliz.* chap. 10.

The Act of 14 *Car.* 2. to continue till the first Session of the next Parliament; save onely for the

Power to make Rates, which is to continue for 3. years.

Sect. 9. The High-ways and Streets, in and about the City of *London.*

For the ordering of the High-ways, Streets, Pavements, Gutters, and Sewers, in and about *London*, these things are to be known.

1. That there are Commissioners to be appointed under the Great Seal of the King, to look to them.

2. These Commissioners may direct, and order the pulling down, new making, or alteration, or reparation of any thing for the amendment thereof, according to the directions, and with the Limitations laid down in the Statute. And for this, they may enlarge, or streighten the passages, erect, or take down any building, *&c.* as they see cause.

3. For the raising of money to do their work, It is provided, that Hackney Coaches may not be used, but by Licence of Commissioners appointed of purpose by the King for it, and a yearly payment for the same, which shall go to this use. That a small sum of money (set down by the Act) be payd upon every Load of Hay and Straw, to be sold in such and such places in *London*. That so much be payd by every Housholder, to carry away the dirt and filth from the doors; *&c.*

4. These Commissioners are to order and direct the Seavengers and such like Officers, and others, for the carrying away of the dirt and filth in the Streets. And to see that every one be made to sweep, and cleanse the Street at his own door twice a week. That none throw any Sea-coal Ashes, dirt, or other filth in the Street. That every Housholder next the Street, hang up lights in the winter time. And they that observe not the Act in these things are to be punished by the penalties therein set down.

down. Other provision under penalties there are in the Statute. For which, see the Statute it self.

Every Justice of Peace within *London* and *Westminster*, within his respective limits, may upon his own knowledge and view, or the Oath of one Witness, convict the offender of most of the offences within the Law, and cause the forfeiture appointed for the same, to be levied by distress and sale of Goods. But for all this, see 13. and 14 *Car.* 2. at large. See some Acts for paving of Streets in *London*, 24 *H.* 8. ch. p. 11. 32 *H.* 8. chap. 17. 35 *H.* 8. 12. 13 *Eliz.* 23. 1 *Jac.* 22. Out of Sessions.

CHAP. XX.

Of Constables of Hundreds and Parishes.

FOr the Election, swearing, removall, and settlement of this Officer, wherein the Justice hath by his Office a Power, and wherein some Questions have been moved; See my *Survey* of the Justices Office, chap. 3. Sect. 11. we shall here onely make these additions thereunto, the Resolutions of the Judges in the Case. *Sect.* 1.

1. That where a Leet is orderly kept, and there is an orderly election of this Officer, from time to time, and no neglect, or miscarriage therein; there the Justices are not in, nor out of their Sessions, to meddle with the Choyce, or removall of this Officer. And if the Justices shall in this case intermeddle, as to remove a Constable setled by the Leet, according to the Custom of the place, the Leet may put him in again, and the Kings Bench must decide the difference. And the power used by Justices herein In or out of Sessions.

herein, hath been always questioned. *Trin. 9. Jac. B. R. Stiles. Rep. 362. Bulstr. 1. part 174.* But it is agreed, That if there be a neglect or miscarriage in a Court-Leet herein, that it doth not choose a Constable, or doth not give him his Oath, or it choose an unfit man, or the like; there the Justices at their Sessions, may interpose and supply it. *Steels. Rep. 71. Mich. 22. Car. B. R.*

2. It hath been resolved by the Judges. 1633. Sect. 29. 30. That if a Constable dye, or be removed, the Leet, if it be near, is to supply the place. If otherwise, it may be done by the Sessions; if that be too far off by the two next Justices. And that if an unfit man be, chosen to the place, the Sessions may help this. And that the Lord by his miscarriage herein may lose his Leet. But now this point is setled by the new Act of 14 *Car.* 2. By which it is provided, That if such an Officer of a Parish die, or remove, any two Justices may make and swear a new one, to continue till the Leet, or the Quarter-Sessions, and then the Steward of and in the Leet, or Justices, are to choose and swear another, or approve of him that is chosen. And that if any such Officer shall continue in his Office above a year, that the Justices at their Quarter-Sessions may discharge him, and put another in his place, till the Lord of the Leet shall keep his Court and place in another.

In or out of Sessions.

In the Sessions.

3. That the Justices are to make the high Constables of Hundreds, where there is not a Leet for the Hundred that hath constantly done it. *Trin. Sess. 2. 9 Jac. B. R.*

4. That an Attorney is to be priviledged by his Office, from the serving of this Office. *Cro. 1. part 283.* So also an ordinary Servant of the Kings. But not a Servant extraordinary. *Resol. Judges. 1633.*

5. That

5. That if one chosen to this Office, refuse to take his Oath, the Kings Bench may send a Writ to him, to compel him to it; or he may be Indicted, or Imprisoned for his contempt, if he have not some legall excuse for it, as that he is out of the Parish, or Liberty, and ought not to serve there, or the like. *Cro.* 1. 409.

6. That a Custom in a Parish or Town, that this Office shall go by the House, is not good. But a Custom that every man sufficient in the place, shall serve the Office himself, or find a sufficient man to serve it, may be good. *Cro.* 1. 283. *Steels Rep.* 362.

7. That he that is chosen to this Office, must be *persona idonea & habilis*, or he may be removed 10 *Eliz.* 4. 18.

8. That a Constable of one Town, may not execute his Office in another Town, wherein he is not Constable.

9. That a Constable of a Hundred, or of a Parish, may not make a Deputy to execute his Office. But a Deputy may do under him, many parts of his Office in his name, so still as the Constable must answer for it. *Resol. of the Judges.* 1633. Sect. 28. *Dalt.* 3. part 77. 78.

CHAP. XXI.

Of Cloth, and Clothiers, and Drapery.

FOr the Justices Power, and Office about Cloth, To search for Tenters, *&c.* To sell faulty Cloth, and divide the money, to make Searchers & Overseers of Cloth; to punish Carders, Weavers, Sor-

ters

Yeers, Spinners, that imbezil, or detain Wooll, or Yarn, and to punish the Clothier, that will not pay his Workmen their wages, and against a Dyer that doth use Logwood. And what the Justice may do herein, within or without the Sessions. Upon the Statutes of 39 *Eliz.* chap. 11. 43 *Eliz.* chap. 10. 21 *Jac.* chap. 18. 28. 4 & 5 *Phil.* & *M.* chap. 5. 4 *Jac.* chap. 21. 4 *Ed.* 4. chap. 1. 5 *Ed.* 6. chap. 6. 7 *Jac.* chap. 16. 1 *Jac.* chap. 6. 1 *Eliz.* chap. 12. See my Survey of the Justices Office. chap. 31. Sect. 10. By 4 *Ed.* 4. 1. It is provided, 1. That the Clothier shall pay to his Workfolks, their Wages, in ready money, and not in Wares, as formerly, in pain to forfeit to them treble damages, and shall deliver them Wooll, according to due weight, in pain of 6 s. 8 d. for every default. 2. That every Fuller in fulling, Rowing, or tasselling of Cloth, shall use Teasle, and not Cards, in pain to yield double damages to the party grieved. 3. That every Justice (out of a Corporation), and in Corporation, every Head-Officer, or Officer, where no Master is to hear & determine the Complaints, concerning these two things; and for the damages, they may commit the offender to prison, till the party grieved be satisfied. And the said Justice, and Officers, have power at the instance of any other person, to enquire after, and punish such offenders, by inflicting three shillings four pence upon them, *&c.* But no way of conviction is set down, and therefore nothing is to be done out of Sessions.

Logwood.

In and out of Sessions.

Justices, and other Head-Officers, are in their Precincts, to appoint and swear Officers, for the due observing of 3. and 4. *Ed.* 6. 5. concerning the well-ordering of Cloth, and they are to make search for bad Cloth.

There

There is a new Act. in 14 Car. 2. chap. 5. for the making and ordering of Worsteds, and other stuffs called Norwich-stuffs; there is a Power given to the Justices of the peace. See the Statutes.

CHAP. XXII.

Of Captains and Souldiers. Upon 18 *H.* 6. 19. 7 *H.* 7. 1. 2. 3 *H.* 8. 5. 43 *Eliz.* 2. 3 *H.* 6. 1.

1. IT is Felony (for a Souldier retained, and having taken Press-money, to serve the King in his Warres) not to go with, or to depart from his Captain or Colours, without Licence, or be an idle Souldier, or Mariner, and wander about idly, and will not set himself to work, or go to the place of his birth, or last dwelling. 39 *Eliz.* 17. And this upon 7 *H.* 7. gives the power to hear and determine the offence of Felony in the Justices of Peace, where the offence is not all done in the County where the offender is taken; & it is doubtful, if the Justices of *Oyer* and *Terminer* may meddle with it, for they can try nothing but what is done in the same County. *Hutton's Rep.* 135. 18 *H.* 6. 19. 3 *H.* 6. 1. 2 & 3 *Ed.* 6. 2. 7 *H.* 7. 2. So if he counterfeit his Captains Testimonial. 39 *Eliz.* 17.

2. If a Captain have not the full number of his Souldiers, or shall not pay them their due wages within 6 dayes after he shall receive them, he doth forfeit all his Goods and Chattels, and shall suffer Imprisonment, by 7 *H.* 7. 1.

3. Officers may arrest such Souldiers, who shall within

within their time, come on this side the Sea without Letters Testimonial of their Captain, and retain them till the cause of their return be tried, by 1 *H.* 6. 19.

In the Sessions. 4. The Justices in their Sessions, may hear and determine these offences, upon these two Statutes before named.

Out of Sessions. 5. By 2 & 3 *Ed.* 6. chap. 2. It is provided, That if a Souldier escape from the Army, without punishment, for making away of his Horse, or his Arms, he may be imprisoned without bail, till he satisfie the party at whose charge he was sent out, by any Justice of those parts where he is apprehended, unless he bring sufficient Testimony from the Commander, that the Horse or Arms were otherwise lost, or imployed in the Kings Service. And this is all that the Justice hath to do herein, upon that Act.

6. By 43 *Eliz.* 3. It is provided, for relief of poor maimed needy Souldiers and Mariners,

1. That a Rate be set upon the County for their relief, which see in *Poor.* chap. 17. and *Rates.* chap. 18. 43.

Treasurers for maimed Souldiers & Mariners. 2. That a prest Souldier or Mariner, coming into *England*, is to go to the Treasurers of the County where he was prest: if not prest, to the Treasurers of the County where he was born, or last dwelt for 3 years at his choice; or if not able so to do, to the Treasurers of the County where he lands. And if he bring with him a Certificate, under the Hand and Seal of the chief Captain under whom he served, of his hurt and services, and this allowed under the Hands of the Muster-master, or Receiver General of the Muster Rolls, or the Hand of one of them, the Treasurer may give him Relief till the Sessions.

Sess. 2. Pensions.

Then

then the Justices may there allow him a Pension, of above 10 l. if he hath not been an Officer, under Lieutenant 15 l. to a Lieutenant 20 l. But a bare Certificate of the Commander, without allowance of the Muster-master, in case where he doth arrive from the place where he is to be relieved, there the Treasurers may give him relief, and a Testimonial, whereby to passe from Treasurer to Treasurer, till they come to the place required. And of all this, the Treasurers are to give an account, what, and upon what Certificate they do pay, and what and why they refuse to pay to any that desire it. The Justices may in Sessions time, fine a Treasurer that wilfully refuseth to give Relief in these Cases. And this any two of the Justices appointed by the Rest, may levie by distress and sale of goods.

3. The Corporations have the same power, as the Justices, and the Justices are not to meddle therein.

Any one Justice may upon proof (which may be by one Witness) commit to prison Souldiers who purloin Horses, Arms, or Armour, till they make satisfaction to the owner thereof. 2. *Ed.* 6. 2. One Justice may license them after their landing, to go to the place they would go. 39 *Eliz.* 14. But Musters here, it is after in this piece, upon 7 *H.* 7. 1. and *Hutsons Rep.* 134. where these things are resolved by the Judges. 1. That where one receiveth Press-money, to serve the King in his Warre, and is in the Kings wages, and with others delivered to a Conductor, to be brought to the Sea side, and then he departed; that this is Felony, for the Captain here is a Conductor within the Statute, being such a one as doth bring them to the Sea side onely. That 7 *H.* 7. 1. extends onely to such Souldiers as

are

re preſſed to ſerve the King upon the Sea or be
Sea. And the Act of 3 H. 8. adds only the Land

4. If any duly required to muſter, ſhall abſent h
ſelf, or not bring with him his beſt Arms, he ſh
ſuffer 10 dayes Impriſonment without Bail, unl
he pay 40 l. to the King, by 4. and 5. M. 3.

5. If any Officer having authority to muſter,
take up Souldiers, take any reward to diſcharge,
ſpare any Souldiers, he ſhall forfeit ten time
much as he takes. 4 & 5 M. 3.

6. If an Officer, when he hath licenſed a So
dier, to depart, ſhall not pay him his wages, C
and Conduct money, he forfeits ten times ſo mu
as he takes; and to the Souldier, three times
much as he ſhould have payd him. 4 & 5 M.
And theſe laſt offences, by 4 & 5 M. 3. may, d
ring the time of the Service, be puniſhed by
Chief Commander. But afterwards, they may b
puniſhed by the Juſtices, who upon Conviction,
may ſend him to priſon, till the forfeitures be payd.
And they have power of *Oyer* and *Terminer* of
offences, the which they muſt (as it ſeems) do
the Seſſions, and may not do any part of it out
the Seſſions, by 4 & 5 M. 3. See more of this,
chap. 17. For proviſion for releiſe of poore
maymed Souldiers & Mariners that ſerved the
and this King, they are to be provided for, S
for this 14 Car. 2. cap. 9. And ſee it in chap.
For the poore.

CHAP

CHAP. XXIII.

For Cordwainers, Carriers, Tanners, and Leather, upon 1 Jac. 22.

Sect. 1. Gashing of Hides, &c.

1. NOne shall gash any Hide, on pain of 20 d. nor water them, but in *June*, *July*, and *August*, nor put them to sale, being putrified, on pain to forfeit for every Hide so watered, or put to sale, 3. s. 4 d.

Calves.

2. None shall kill any Calves, under five weeks old, on pain of 6 s. 8 d. for every Calf so killed, 1 Jac. 22.

Butcher, Tanner.

3. No Butcher shall exercise the mystery of a Tanner, on pain of 6s. 8 d. for every day he so continues both Professions, 1 *Jac.* 22.

In the 3d. ont.

4. And none shall be Tanners, but such as have served 7 years as Apprentices, or hired Servants in that Trade; or the Widow or Children of a Tanner, having a Tan-fat left them, & having been brought up in that Profession, by the space of 4 years, on pain to forfeit all the Leather they Tan, or the full value thereof.

Who may be a Tanner

5. None that useth the Cutting or Working of Leather, shall be a Tanner, on pain to forfeit all the Leather he Tans, or the value thereof.

Hides to be bought.

6. None shall buy any rough Hides, or Calf-Skins in the hair, but such as do, or may lawfully Tan them (except Salt-Hides, for the necessary use of Ships) on pain to forfeit them, or their just value.

Fore-stalling of Hides.

7. Nor shall any fore-stall Hides, but buy them in open Market, except of such as kill beasts for their own provision, on pain to forfeit for every Hide

Hide, otherwise bought, 6*s.* 8*d.*

Leather to be brought.

8. None shall buy any Tan'd Leather unwrought but onely such as will and shall convert the same into made Wares.

London.

9. This Act shall not restrain Artificers from buying Tan'd Leather every *Munday* at *Leaden Hall*, to be converted into made Wares, being first duly searched, sealed, and registred, as hereafter is limited: Nor Girdlers or Sadlers, from selling their Necks or Shreds of Tanned red Leather.

Sect. 2. How the Tanner must order his Hides.

10. The Tanner that over-limes his Hides, or useth in his Tanning any thing, save Ash-Bark, Oak-Bark, Lapwort, Malt, Meal, Lime, Quiver-dung, or Hendung, or suffers them to be frozen, or parched with Fire or Sun, or tans such as are rotten by long lying, or otherwise; or continues not his Butter-sole Leather 13 Moneths in the Wooses, and Upper Leathers 9 Moneths; or doth negligently work his Hides in the Wooses, not renewing and strengthning them, as often as need shall require, or doth work them in any other sort, then is by this Statute limited, shall forfeit every Hide so tanned and put to sale, or the full value thereof.

In the Sessions.

What Leather must be bought and sold.

11. No Tanner shall by mixtures raise any Hide for sole Leather, which shall not be fit for that use, on pain of forfeiting the same.

Leather to be searched and sealed.

12. None shall put to sale any Tan'd Leather, red and unwrought, but in open Fair or Market, unless the same hath been searched and sealed in some Fair or Market before; nor shall any offer to sell any such Leather, before it be searched and sealed, on pain to forfeit for every Hide, otherwise put to sale, 6*s.* 8*d.* and for every dozen of Calf-Skins or Sheep-Skins 3*s.* 4*d.* besides the Hides and Skins themselves, or the full value thereof.

13. Nor

13. None shall put to sale any Leather insufficiently tan'd or dryed, on pain to forfeit the whole, or at least so much as shall be so misused. Leather to be sold.

14. No Tanner shall hasten the Tanning of his leather, by giving it unkind heats with hot Wooses, or otherwise, on pain of 10 *s.* and to stand upon the Pillory 3 days, in the next Market. How Leather is to be made ready.

15. None shall buy or ingross Bark, to the intent, to sell the same again, on pain to forfeit it, or the value thereof: nor shall any fell Oak-Trees, apt for Barking, where Bark is worth 2 *s.* the Cart-Load, (Timber for the necessary repair of Houses, Ships, and Mills excepted) but onely betwixt the first of *April*, and last of *June*, on pain to forfeit the Trees otherwise felled, or the double value of the same. Ingrossing of Leather.

16. Purveyors of Trees, for the King's use, shall fell them onely in Barking-time, (except for the present repair of the King's Houses or Ships) and shall take no more thereof from the Owners, then what may serve the King's present occasion, on pain to forfeit to the party grieved, for every Tree; and for the Lop or Top-bark of every Tree taken, contrary to this Act, 40 *s.* And it shall be lawfull for the Owner, to retain the Lop, Top, and Bark of every such Tree. See the New Law, 14 *Car.* 2. Purveyance

17. A Currier shall not curry a Hide or Skin, not sufficiently tanned and dryed, and that in his own house, scituate in some Corporate or Market-Town, and not elsewhere; nor shall gash, or otherwise spoil, or impair them; but work them sufficiently in all points, on pain to forfeit for every Skin or Hide so spoiled (otherwise then by gashing, in shaving them) 6 *s.* 8 *d.* besides the value of the Skin or Hide; and for gashing them, to forfeit to the *Sect.* 3. In the Sessions; Hides to be curryed. Gashed.

the party grieved, twice so much as he impairs them thereby.

Sect. 4. In the Sessions. How the Trade is to be ordered in and about *London*, searching of it, where it must be.

10. No Artificer within *London*, or three miles distance from it, shall put any Leather to be curryed, save onely to some person free of the Company of Curriers in *London*, on pain to forfeit the same or the value thereof.

11. None within the Jurisdiction of *London*, shall use or put into made Wares any curryed Leather, before the same be searched and sealed, on pain to forfeit for every Hide or Skin, 6 *s.* 8 *d.* and also the value of every such Hide or Skin.

A Currier may not be a Tanner.

12. A Currier shall not use the Art of a Tanner, Cordwainer, Shoo-maker, Butcher, or other Artificer, which useth to cut Leather, on pain to forfeit for every Hide or Skin, he curryeth, during that time, 6 *s.* 8 *d.*

Currier must curry for others.

13. No Currier (sufficient stuff being tendered him) shall refuse sufficiently, to curry Leather within 8 days in Summer, & 16 in Winter, after he shall, or may take it in hand, on pain to forfeit for every Hide, or piece of Leather, not Curryed accordingly, 10 *s.*

Searching of Leather.

14. The Wardens of the Company of Curriers (or Officers by them appointed) shall within one day, after request made unto them, search and seal Leather curryed; for which the Currier shall pay after the rate of one peny, for every Dicker of Hides, and as much for every Dozen of Calf-kins, and shall forfeit for every Hide, not searched and sealed as aforesaid, 6 *s.* 8 *d.*

Shoo-makers to make good Ware.

15. Shoo-makers shall make their Boots, &c. of good and sufficient Stuff, sew them well, and not put them to sale on *Sundays*, on pain to forfeit for every such default, or offence, 3 *s.* 4 *d.* and also the

the full value of all Wares, otherwise made or sold.

Wardens must search Leather.

24. The Masters and Wardens of the Company of Shoe-masters, Curriers, Girdlers, and Sadlers, within the Jurisdiction of *London*, or the more part of them, shall once every Quarter, (or oftner, if need require) make search and view of all Wares made of Tan'd Leather, on pain to forfeit 40 *s.* for every years default, to be divided betwixt the King and the Prosecutor; and shall also have power, to seise all insufficient Wares found upon search. The said Masters and Wardens shall onely search the Wares of such as are of their own Professions; and Coach-makers shall be under the survey and search of the Company of *Sadlers*.

Sect. 5. In the Sessions.

25. The Mayor and Aldermen of *London*, shall (within the said Jurisdiction) and upon the like pain of 40 *s.* to be imployed as aforesaid, choose and swear; and expect men out of some of the four Companies aboveſaid, to the Searchers and *Sealers* of all Tan'd Leather there; whereof one shall be assigned to keep the Seal.

Searcher of Leather to be made.

Corporations.

26. Head-Officers, in Corporate and Market-Towns, Lords of Liberties, shall yearly, in all other parts of the Kingdom, upon like pain of 40 *s.* to be imployed as foresaid; appoint and swear 2, 3, or more, honest and skilfull men, to be Searchers and Sealers of Leather; who shall have power to seal sufficient Wares, and seize and return insufficient, till tryed by Tryers hereafter appointed by this Act.

Tryers of Leather.

27. There shall be appointed six Tryers of insufficient Leather, and Leather-wares, which shall be seised within the said Jurisdiction of *London*; and when any such Leather or Wares are seised within any other Jurisdiction, the Chief Officer, Lord of the Liberty, or his Deputy, shall cause

Tryal thereof to be made, by the Oath of 6 hon men, upon some Market-day, and within 15 d after such seizure made.

28. The Lord Mayor of *London*, and the He Officer, and Lord or Deputy aforesaid, shall a point Tryers in their several Jurisdictions, on p of 5 *l.* to be divided betwixt the King and the P secutor; and these Tryers shall do their duties that Office, without delay, on pain to forfeit, every default, 5 *l.*

Tryers to be changed.

29. Four of the Tryers in *London* shall changed, and other four placed in their Rooms and none shall continue in that Office there abo two years. And if any happen to be Tryer t years together, he shall not be chosen again with 3 years after, on pain to forfeit, for every mon he continues otherwise in that Office, 10 *l.*

Searchers Office.

30. No Searcher or Sealer of Leather shall re fuse, within convenient time, to do his Office, allow any Wares, which are insufficient, on pa of 40 *s.* and shall not take Bribes, or exact mo then due Fees, on pain of 20 *l.* Nor being lawfu ly elected, shall refuse the Office, on pain of 10 *l.* All Red-Tand Leather, which shall be brought within the aforesaid Jurisdiction of *London*, shall be carryed to *Leaden-Hall*, before it be housed, an there searched, sealed, and registred, by the Of ficers aforesaid; for which, if it were sealed before (out of the said Jurisdiction) they shall take half Fees only.

Leather to be sealed, before sold.

31. None shall sell any Tand-Leather, within the aforesaid Jurisdiction of *London*, before the Of ficers there have searched and sealed it, on pain to forfeit the same, or the value thereof. None shall withstand the Searchers and Sealers, in the due e

cu

cution of their Office; nor the seizing of insufficient Wares, on pain of 5 *l.*

32. The aboveſaid Searchers and Sealers, ſhall regiſter all Land-Leather, ſold in Fairs or Markets, together with the prizes thereof, and the names and dwelling-places of the Buyer and Seller, (being thereunto required by the ſaid Buyer or Seller) taking as well of the Buyer as Seller, 2 *d.* for every 10 Hides, Backs, or Buts of Leather, and 1 *d.* for every 6 dozen of Calfs-Skins, and Sheep-Skins, and no more. None ſhall ſell any Tand-Leather, (red and unwrought) before it be regiſtred, on pain to forfeit the value thereof. Searchers to ſeal Leather before ſale.

33. None ſhall buy any Tan'd Leather, before it be ſearched and ſealed; nor carry it out of the Fair or Market, before it be regiſtred, on pain to forfeit the ſame, or the value thereof.

Sect. 6.

34. The Currier within the Juriſdiction of *London* aforeſaid, which curricth not his Leather ſufficiently; and every other Artificer there (uſing Tan'd and Curried Leather) which putteth into his Wares Leather inſufficiently Tan'd or Curried, ſhall forfeit for every ſuch default the ſaid Wares, and the juſt value thereof. In the Suffons. Currier muſt order his Leather duly.

35. No ſuch Artificer ſhall ſell any Wares, but in open Shop, Fair, or Market, where due ſearch may be made; on pain to forfeit the Wares otherwiſe ſold, and 10 *s.* for every ſuch offence. Sale muſt be openly.

36. The ſum of moneys forfeited, ſhall be diſtributed into three parts; whereof the King ſhall have one, the Proſecutor another; and the City, Corporation, or Lord of the Liberty, the third. Diſpoſal of the Forfeitures.

37. The value of the Wares forfeited within the Juriſdiction of *London*, after Praiſement, ſhall alſo be divided into three parts; whereof one ſhall be In *London*,

given to the Seizer; another to the Chamber of *London*; and the third to the Poor. And in all other places, one third part to charitable uses; another to the Head-Officer, or Lord of the Liberty; and the third to the Seizer, or Seizers, for his or their pains.

Buy to sell again

38. None shall buy any forfeited Wares, to sell them again, on pain to forfeit for every parcel thereof 3 *l.* 4 *d.*

Universities

39. This Act shall not prejudice the Authority of the Universities; so that their Officers observe the provision of this Act, under the Penalties therein contained.

40. The Hides or Skins of Oxe, Steer, Bull, Cow, Calf, Deer, Goats, or Sheep, being tanned, tawed, or salt Hides, are reputed Leather, within the letter of this Statute.

The power of the Justices of Peace

41. Justices of Assize, Gaol-Delivery, and Peace, the Mayor of *London*, or Head-Officers within their several Precincts, have power to hear and determine these offenses.

Wales.

42. This Act shall not extend to *Wales*.

43. If any Customer, or other such Officer, having notice of the transporting Leather, do not use his best endeavour to seize it; or, being transported, do not disclose it within 40 days, shall forfeit for the first default 100 *l.* and for the second, lose his place. And every such Officer, for making a false Certificate of the arrival of any Leather, shall also forfeit 100 pounds.

44. This Act shall not extend to *Scotch* Hides brought to *Berwick*.

45. Licenses to dispence with the Offences prohibited by this Act shall be void. See *Car.* 1. *cap.* 6.

46. The

46. The Justices of Peace have nothing to do upon the Laws of 27 *H.* 8. 14. 5 and 6 *Ed.* 6. 15. 1 *Mar. Parl.* 2. 8. 5 *Eliz.* 22. 18 *Eliz.* 9. about these matters. Not upon 4 *Jac.* 6.

CHAP. XXIV.

SECT. I.

Of Licenses and Testimonials.

FIrst, that Justices may give out of Sessions, to Mariners, or men that suffer shipwrack; to Labourers to go to work in another County at Harvest; to license Servants, to depart out of their Masters service; to license a fined Recusant, to go about some special business; to license Poor, to travel to *Bath* or *Buxton*; to Church-Wardens and Overseers, to set up a Trade. See my *Survey of the Office*, Chap. 3. Sect. 30. Out of Sessions.

2. The Justices in their open Sessions, may license married men, and Householders, of 30. years of age, to be Badgers, Laders, Lidders, Carriers, Buyers, or Transporters of Corn, Grain, Butter, and Cheese, if they have dwelt in the County 3 years before, under the Hands and Seals of 3 Justices, (*Quorum unus.*) at the least, for one year from the date of it, by 5 *Eliz.* *Chap.* 12. There they may license the Transportation of Grain, as they think fit, upon 13 *Eliz.* 13. But these Orders, for this licence, must be approved of by the King, or his Council.

3. So to transport Grain or Cattle from Port to Port, by a Drover; or to buy and sell Victuals, and not

not to foreſtal, and by a Budger. The Juſtice may out of Seſſions, perhaps give License, upon 5 6 Ed. 6. 14.

4. One Juſtice may license a Souldier, at landing, to paſs to the place he would go, 5 Eliz. 14.

Preſidents of Licenſes.

W.S. and *J.S.* two of the Juſtices of the Peace &c. Know all men by theſe preſents, That we do hereby license *J. M.* of &c. to keep a Common-Alehouſe in *L.* in the houſe there where he now dwelleth, for one whole year next enſuing the date hereof; ſo that he do not, during that time, ſuffer any unlawfull Games to be uſed, nor any evil Rule or Diſorder to be done in the ſame houſe, Dated &c.

To brew and ſell Beer, and keep a Common-Alehouſe, &c.

J.S. A ſturdy vagrant Begger of Low Perſonage, Red-hand, &c. and about 20 years old, was the firſt day of *May*, openly whipped at S. in the ſaid County, according to the ſaid County, according to the Law, for a wandring Rogue, and is aſſigned to paſs forthwith from Pariſh to Pariſh, by the Officers thereof, the next ſtraight way, to *P.* in the County of *S.* where (as he confeſſeth) he was born or dwelled laſt for one whole year, if the caſe be ſo, and he is limited to be at *P.* aforeſaid, within ten days now next enſuing at his peril. Given at *S.* under the Hands and Seals of *H.S.* Eſq; one of &c. and *J. D.* the Conſtable of *S.* aforeſaid.

W.S.

W. S. &c. our &c. To all Constables, Tythingmen, &c. Forasmuch as I am credibly informed, that *J. S.* the Bearer hereof, of low personage, &c. hath been at Sea; and there the first day of *May* last suffered shipwrack, and hath not wherewith to relieve himself in his Travail, to the place of his Birth, (or last dwelling): These are to desire you to suffer him to pass the next way to the said place; where he is limited to be, within 40 days next after the date hereof; and not to trouble, but rather to relieve him.

The like may be for a poor Souldier.

W. S, and *J. S.* two of the Justices, &c. To all &c. The Bearer hereof, *J. S.* of &c. having (shewn the cause of his Travail) desired our Testimonial or License, for his safe Travail to the City of *B.* (shew whither he is to go) wherefore we (as much as is in us) do License him to travel the direct way from *H.* in the County of *G.* to the said City; so as his Journey be not continued longer than 20 days next after the date hereof; and pray you to suffer him to pass in peace, so as he demean himself orderly.

And by these a Testimonial may be made for other things: As for a Labourer in Harvest time, to go into another County to work; or a Servant departing at the end of his year.

SECT.

SECT. II.

Of Certificates.

1. A Certificate of the Presentment, or Verdict of the Jury, may be made into the Kings-Bench; the like may be made of the Record of a Force, viewed by the Justice.

2. These Certificates, (and the like) may be made by the Justice of Peace, by way of a Letter, inclosing therein the Presentment of the Jury, or the Record of the Justice, except the same be removed by *Certiorari*. The Forms hereof, see *Fitz. Nat. Brev.* 242. &c.

3. Or the Justice of the Peace may deliver the same into the Kings-Bench, with a *Certiorari*, he being a Judge of Record.

4. It may be done on the Back of the Writ thus: I. *N.* S. &c. one of the Justices of the Peace of the Lord the King in the County of *Gloucester*, the tenor of the security of the Peace, of which there is mention in this Writ, or (whereof there is mention herein) to our said Lord the King, into his *Chancery*, under my Seal distinctly and openly, do send, as appeareth in the Schedule to this Writ annexed. Then write the Recognizance *verbatim*. And that the first day of *May*, &c. came before me, &c. In witness whereof, I the said *N. S.* have put to my Seal. Dated &c. [And let him set his Seal, and then file all this to the Back of the *Certiorari*. Write upon the back of the *Supplicavit* thus: *The Execution of this Writ appeareth in the Schedule to the Writ annexed.* And put his name to it.]

Then

Then the Shedule may be thus, and filed to the Back of the Writ: I. *W. S. &c.* certifie in the *Chancery* to our Lord the King, That I, by vertue of this Writ (to me first delivered by *M. B.* in the Writ named) caused to come before me the first day of *May*, *T. R.* in the same Writ named, and have compelled him to find sufficient Security, and *mainpernors*, according to the form of the said Writ (as the Writ doth appoint.) In witness whereof, I have put my Seal to this present Certificate, Dated at *C.* aforesaid in the County aforesaid, the said first day of *May*. And herewith the Justice may, if he will, send the Recognizance; or he may keep it till it be sent for by *Certiorari*.

CHAP. XXV.

Of a Mittimus.

A *Mittimus* is said to be an Order of Commitment of the person of a man to Prison by a Justice, to an inferiour Officer, for the time the Law appointeth, for some offence by him done. And there is little or no difference between this, and a Warrant of Commitment. And as to this, it is to be known, *Warrant.*

1. That albeit it be usual for Justices to send a *Mittimus* to the Gaoler, to receive the Prisoner, and to give the Constable no Warrant to carry him to Gaol, and to deliver him to the Gaoler; yet that this is not safe for the Justice, or for the Constable, unless it be in case of a Warrant of the Peace, or good Behaviour. And therefore it will be the Justice's safety, and Constables wisdom, *Caution of Justices.*

to

Quarter Justices. to have, and to give, and take one Warrant to the Constable to carry the Prisoner, and another Warrant, or *Mittimus* to the Gaoler, to take and keep him, &c. And this is most needfull, where the offence, for which he is committed, is an offence by a Statute-Law.

And every *Mittimus* to be made, must be made after this manner.

1. It must be in writing, under the Hand and Seal of the Justice.

2. It must express his Office; as *A. B.* Esq; one of the Justices of the Peace of the County of *G.*

3. It must be directed to the Gaoler or Keeper of the Prison.

4. It must express the name, Christian and Sirname, of the party committed.

5. It must express the cause of the Commitment, as for suspicion of Felony, and the like; the offence must be always expressed.

6. It must have an apt conclusion, as thus: *The Prisoner safely to keep, until he be delivered by due course of Law*, &c. And it must set down the time of its making. So in a Commitment to *Bridewell*, it is best to set down the cause; as to say, *Because he is idle*, or the like. And therefore a *Mittimus*, with this clause, *To answer to such matters as shall be objected against him; or to keep the prisoner, till the Justice give order for his deliverance*, or the like, is not good. *Cook* 2 part. *Inst.* 591.

7. In the Pass or Mittimus of a Rogue, where there is to be a recital of a punishment, the manner and time of the punishment is to be set down.

8. If the *Mittimus* be for Felony, and the Felon hath confessed the Felony upon his Examination,

tion, then the *Mittimus* is to express it, for then he is not Bailable.

Some Presidents for it.

To the Keeper of the Common Goal for the County of G.

For Felony.

A. B. Esquire, one of his Majesties Justices of the Peace for the County of *Glocester*, to the said *K.* These are to require you in his Majesties name, to take into your Goal & Custody, the Body of *L. M.* sent unto you herewith, being charged before me, with the felonious stealing of a silver Spoon, and that you do him safely keep, untill he shall be discharged by order of Law; and hereof fail you not, at your peril. Given under my Hand and Seal, the first day of *May*, 1662. Or thus;

The like.

For as much as *A.B.* was this day brought before me, and charged with the felonious taking, *&c.* (or for suspicion of Robbery done) which, upon his examination, he hath confessed, &c. These are therefore in his Majesties name, to require you presently, upon sight hereof, to take into your Goal and Custody, the Body of *&c.*

For using Nets to kill Conies.

A. B. &c. To the Keepers of the Common Goal for the County of G. It having been made appear to me, upon examination, That *L. M.* and *N. O.* of *Dale*, in this County, have kept and used Nets and Terrets, for the taking and killing of Conies for a year last past, against the Statutes of the Realm. And they having been required to enter into Recognisance, to appear at the next Quarter-Sessions for the County, according to the same

Laws,

Laws, they have both of them refuſed ſo to do. Theſe are therefore to require you in his Majeſties Name, to receive into your Cuſtody, the Bodies of the ſaid *L. M.* and *N. O.* whom I have ſent you by this Bearer *T. D.* one of the Conſtables of *Dale* aforeſaid. And them ſafely to keep, until they ſhall enter into ſuch Recogniſances as aforeſaid, or untill they ſhall be otherwiſe diſcharged by Law, and hereof fail you not. *Given, &c.*

To the Maſter of the Bridewell of S. for the County of G.

A. B. &c. Theſe are, *&c.* to receive into your Cuſtody, the Body of *L. M.* and him ſafely to keep, untill he ſhall be delivered and diſcharged by order of Law; and that, during all the time, you hold him to Labour, and take care he be no charge to the County.

Given, &c.

For Tipling. That you receive into you Cuſtody, the perſons whoſe names are under-written, there to remain without Bail or Mainprize for 5 dayes, for keeping of Tipling-houſes, and common ſelling of Ale without License. And alſo being diſcharged and forbidden by us to do the ſame. That before their deliverance, every one of them to enter into a Recogniſance with two ſufficient Sureties not at any time hereafter to keep any Tipling-houſe, or uſe a common ſelling of Ale or Beer in that behalf; provided whereof, *&c.*

A. D. of *Dale* aforeſaid.
E. F. of *Dale* aforeſaid.

G. F. of

G. F. of *Dale* aforesaid.

That you receive, &c. for divers misdemeanors committed by him, until he shall be bound in a Recognisance, with Surety before some Justice of Peace to appear at the next General Sessions of the Peace to be held for the County, and in the mean time to be of Good behaviour towards our Sovereign Lord the King, and all his Liege People (or thus, if for the Peace.) And in the mean time, that he keep the Peace towards our Sovereign Lord the King, and all his Liege People, and especially towards *A. B.* whereof, &c. For Surety to the Peace, or good behavior.

Sir S. &c. *Whereas* C. D. *hath been, for matter of misbehaviour proved before me, by me required to find Sureties for his good behaviour, which he hath resolved to do, These are to require you, that presently, upon sight hereof, you receive him the said* C. D. *herewith sent, into your Custody, and him to keep, and not deliver, till he shall find sufficient Surety for his good behaviour and appearance at the next General Sessions, to be holden for the said County, and thereof,* &c. For the good behaviour.

For the Peace.

Whereas C. D. *hath been for good cause by me required to find Sureties for the Peace, which he hath refused to do. These are,* &c. (as in the last.) *till he shall find Sureties for the keeping of the Peace, and his appearance,* &c.

The Reputed Father of a Bastard-child.

Sir C. &c. *I send you here with all, the body of* J. S. *of*

J. S. of B. in the said County, Labourer, brought before me this day, and charged by F. O. of the same Town, to have gotten her with child; and for that the said J. S. refuseth to put in security for his appearance at the next Quarter Sessions; and to the end, he may be forth coming, when as order shall be taken for the relief and discharging of the said Town of G. and for the keeping of the said Child, when it shall happen to be born, according to the Statute in that case provided, These are to require, that you do immediately receive the said J. S. and him safely to keep in your Goal, untill such time as he shall be thence delivered by due course of Law. Dated, &c.

And Overseer that refuseth to account.

Sir S. and L. M. Esquire, two of the Justices, &c. to the Keeper of the Goal within the Castle of Gloucester, we send you herewith I. S. and Sir B. the late Overseers of the poor of the Parish of Dale, for that they being called before us, to give in a true account of the moneys by them received and laid out in the time of execution of their said Office, they did in our presence, wilfully refuse so to do, We require you therefore them safely to keep, without Bail or Mainprise, untill they shall make a true account thereof, and satisfie and pay to the present Churchwardens and Overseers of the Poor of the same Parish, so much as thereby shall appear to be remaining in their hands. And hereof fail you not, &c.

Of a dangerous Rogue to Bridewell.

C. S. and L. M. &c. to the Master or Governour of the house of Correction, or his Deputy there.

Whereas

Whereas J. S. *a ſturdy vagrant Beggar, was this day brought before the Conſtable of* Dale, *and charged as well with begging and idle wandring abroad; as alſo with other diſorderly behaviour, ſo as he appeareth to us to be dangerous to the inferior ſort of people, contrary to the Laws of the Nation in that caſe provided. Theſe are therefore to require you, to receive the ſaid* J. S. *into your Cuſtody, and him ſafely to keep in your Houſe of Correction, untill the next Quarter-Seſſions to be holden for this County. And that during all the time he ſhall continue with you, and be in his good health, you do hold him to work, and puniſh him by putting fetters and gyves upon him, and by moderate whipping of him. And that you give him no more for his maintenance, then what he ſhall deſerve, or earn by his labour. And that you have the ſaid* J. S. *and this Precept at the next Quarter-Seſſions.*

A diſorderly perſon.

W. S. &c. We have ſent you herewithall, the Body of *E. C.* of *D.* in this County, being an idle, or diſſolute, and diſorderly perſon, and one that liveth idly, and wandreth begging about the Countrey, and brought before us by the Conſtable of *Dale*, whom you are hereby required to receive, and him to keep in your Bridewell to work, untill he ſhall be from thence duly delivered by order and courſe of Law: and in the mean time, you are to keep him to work, and ſee to it, that he have no more for his maintenance, then what he can get by his work. And hereof, *&c.*

One

One running away, leaving a charge to the Town.

W. S. &c. We send you herewith the Body of *J. S.* of , *&c.* for that she being a poor woman, able to work, and having a great charge of Children, and like to charge the Parish, she doth threaten to run away from her charge, and leave it to the Parish. These are therefore, &c. (as in the last.)

The Mother of a Bastard-child.

W. S. &c. We send you herewithall, the Body of *J. C.* of *W.* in the County of *G. S.* English-woman, lately delivered of a Bastard-child, likely to be chargeable to the Parish of W. aforesaid. And for that the said *C* is able to labour, and that thereby she may the better relieve her self and her child, these are to require you, to receive the said *J. C.* into your Bridewell, there to be punisht and set to work for one whole year, according to the Statute in that behalf provided.

But here observe, that these three last Presidents, be grounded upon 7 *Jac.* 4. which doth not prescribe any way of Conviction of the offender, unless it come under the general words of 39 *Eliz.* 4. that they be taken for idle and disorderly persons: for that being proved before two Justices, by two Witnesses, this is a Conviction in Law.

CHAP.

CHAP. XXVI.

Of Exportation or Transportation, and Importation.

Of Leather and Hides.

1. ALL Justices are by Land and Water, to search for, and finding, may seize any Leather, or raw Hides wrought, cut, or uncut, packed up, or unpacked, intended or purposed to be transported beyond the Seas, or into *Scotland*, other then Calve-skins, and Sheep-skins, dressed without the Wooll, that may by Law be transported by former Statutes, upon 14 *Car.* 2.

Out of Sessions.

Exportation of Wooll, Woolfels, &c.

2. The Justices may in their Sessions, hear and determine the offences about the exportation of Sheep, Wooll, Woolfels, Mortlings, Shorlings, Yarn made of Wooll, Wooll-flocks, Fullers Earth, Fulling-clay, and Tobacco-pipe-clay, upon the point of forfeiture for the same, upon 14 *Car.* 2. and 8 *Eliz.* chap. 3.

In the Sessions.

Bone-lace, Cutwork, Imbroidery &c. Constables. Out of Sessions.

3. Any one or more Justices, upon complaint to him, may, and ought to issue forth his, or their Warrant to the Constables of any Parish, to enter and search at times convenient for forreign Bone-lace, Cutwork, Imbroidery, Fringe, Bandstrings, Buttons, or Needle-work, imported from beyond Sea, or sold here in the Shops, Ware-houses, or other houses of such as are suspected to have any of it, and to seize the same, upon 14 *Car.* 2.

CHAP. XXVII.

Of Felony.

AS to Felons and Felonies, and what the Justice of Peace is to do about this, it is to be known,

Out of Sessions. 1. That it is held that a Justice of Peace may not make a Warrant to take a man for Felony, unless he be indicted. And after Indictment, if it be, it must be by process out of Court: nor can he send for him by a Warrant upon his own suspicion, much less upon the suspicion of another, but must arrest him himself, as another man must do. But the Justice may make a Warrant to the Constable of the Town, to see the Peace kept in the apprehending of a Felon, and bringing of him before him. And then the party that doth know of, or suspect the Felon, and hath given information, is to arrest him. And it is in Law his arrest; And they may not break open any House to do it, but the door being open, may go in to do it. 14 *H.* 8. 16. *Cro. Justic.* 4. part 177.

2. That no Justice upon a bare surmise, may send his Warrant to break open any mans House to search for a Felon, or stolen goods.

In Sessions. 3. That there are some few offences made Felonies to be heard and determined by the Justices in their Sessions, as the breaking down of *Pondes*, Buggery, *&c.* and some Felonies in the Northern Counties. 22 *H.* 8. 11. 25 *H.* 8. 6. 43 *Eliz.* 13.

4. That the Justices may examine Felonies that are such by Statute, wherewith they have not to do, to hear and determine them, send the Felon

to Gaol, and bind over the prosecutors and witnesses to the Gaol-delivery.

3. That where any Treason or Felony greater or lesser, is committed, by killing, stealing, burning of dwelling Houses, or otherwise upon the Common Law, or any Statute, in all such cases, these things are to be done by the Justices of the Peace out of their Sessions.

Out of Sessions.

1. Any one Justice of Peace, upon notice or report, may send his Warrant under his Hand, of *Hue and Cry*, and search after the suspected Felon; and if they find him, or one they have good cause to suspect, apprehend, and bring him before a Justice of Peace to be examined thereof. And this he may direct to the Sheriffs, and all Constables of every Town and Place within the County.

2. If the Felony be by taking away of goods, he may send his Warrant to search in suspicious places, for the goods stolen; and if found, to secure them for the owner; and if the Officer suspect the party, in whose hands the goods are, to bring him to a Justice to be examined. But this Warrant must be warily and tenderly made and used.

Take Information upon Oath.

3. When any is suspected of Felony, by another that is willing to inform against the Felon, the Justice may take his information upon oath (if he will so give it) or without oath (if he please) as is conceived. And if the party will not give upon oath, he shall do well to take it so as he will give it. Nor will we advise a Justice to force any thing in this case, but to take such information as the Informer will give, and bind him over.

4. If a Felony hath been done, and there are some that can discover the Felon, and will not voluntarily come in and inform the Justice of Peace,

Examine the Felon.

may send his Warrant, to require them to come in to him, and give such evidence as they can against the person suspected; and if they be obstinate, and refuse, he may perhaps bind them to the good behaviour, and to appear at the Sessions to answer their contempt therein.

5. The Justice of Peace, when the suspected person is brought before him, is to examine him, but not upon Oath. But may examine others against him upon Oath, if they will be so examined.

6. He must put the Examination, or the effect thereof in Writing, and let the person examined (if he will) put his hand to it.

Mittimus.

7. If the Justice see any cause of suspition in the case, he is to send the person suspected by a *Mittimus* to the Gaol, and bind over the Informer, if there be any in the case; or if not, some other person interessed in it, or one that doth appear to prosecute it; or one of the Witnesses to prosecute the suspected person at the next general Gaol-Delivery or Sessions (as the case is.) And also bind over such of the Witnesses as can give the best evidence, to be then there to give evidence.

Bind over.

8. All these Examinations and Informations, or Copies thereof, together with the Recognizances for appearance of the prosecutors and Witnesses, he is to certifie, and send into the next Gaol-Delivery, or Quarter-Sessions, where the offender is to be tryed.

Bail the Felon.

9. One Justice alone, may not safely in any case, bail such a person accused of Felony. But if he see cause, or desire to bail him, because the offence is small, as a *petit Larceny*, or if greater, the evidence little, or none at all against him, he may call

call to his assistance, another Justice of Peace, for there must be two Justices of Peace, and one of the *Quorum*, and they must be together to do this work. See Bail, and 1 & 2 *Ph.* & *M.* 13.

10. Any one Justice may send his Warrant to arrest any one that stands indicted of a Felony.

CHAP. XXVIII.

Of Fish, and Fishing.

ABout Fish and Fishing, upon 1 *Eliz.* 17. 5 *Eliz.* chap. 5. 21. 3 *Jac.* 12. 1 *Jac.* chap. 23. *West.* 2. 43.

Conservators of Rivers.

1. Justices are to be Conservators of the Rivers, and may search Weares, that by the streightness the fry of Fish be not destroyed therein, upon *West.* 2. 47. & 13 *R.* 2. chap. 14. And may appoint under Officers to look to the Rivets, and inform against offenders therein, upon *West.* 2. 47. 13 *R.* 2. 19. 17 *R.* 2. 9.

Pilchards.

2. Any one Justice upon complaint to him made of idle and suspitious persons, that in the night time flock together about the Boats, Nets, or Cellars of, or belonging to the Pilchard Craft in *Cornwall* or *Devon*, and that being warned to be gone, do not depart away, such person shall pay 3 *s.* to the poor of the place. But here is no way of Conviction set down, and therefore if any thing be done on this, it must be in Sessions.

3. If any one shall fish along the Sea-shore, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, with any Net of a less mesh then three inches and a half betwixt knot

and

and knot (except for the taking of Smoult in *Norfolk* only,) or with a Canvas Net, or other Engine, whereby the Spawn or Fry of Fish may be destroyed, he forfeits the Net, or Engine, and 10 s. in money to be divided between the poor and the prosecutor; to be levied in a Corporation by the head Officer, and in the County by distress and sale of goods, by Warrant from a Justice unto the Constable and Church-wardens of the place, upon 3 *Jac.* chap. 12. 3 *Car.* 4.

Out of Sessions.

4. None may use any Net or Engine, to destroy the Spawn, or Fry of Fish, or take Salmons or Trouts out of season, or Pikes shorter then ten inches, Salmons then 16, Trouts then 8, and Barbels then 12 inches; or use any Engine to take Fish, other then an Angle or Net of Tramel, of 1 inches and a half mesh, in pain of 20 s. for every Fish so taken, and the Net or Engine so used. The Justices in their Sessions only, may hear and determine these things.

In the Sessions.

5. None may break down Fish-pond-heads, or fish in anothers Pond, without his leave, in pain to be imprisoned three months, and to be bound with Sureties, to the good Behaviour for 7 years. And the Justices in the Sessions only have power to hear and determine this. And there if the offender acknowledge his fault, and give satisfaction to the party grieved, they may release him of the good Behaviour again, upon 5 *Eliz.* chap. 21.

6. No Fisherman using the Sea, is to be taken by the Kings Commission, to serve as a Mariner at Sea, unless the Commission be first brought by the Kings Taker, to the two next Justices, that they may chuse and return such sufficient number of able men, as in the same Commission shall be contained, upon 5 *Eliz.* chap. 5.

CHAP.

CHAP. XXIX.

Of Horſes.

1. NOne may put to feed upon Forreſt, or common ground, any Stoned Horſe, above two years old, and not 15 hand high, from the lower part of the Hoof, to the upper part of the Wither (every hand containing 4 Inches Standard-meaſure) in pain to forfeit the Horſe: And this offence, Juſtices in their Seſſions may hear and determine, upon 32 *H.* 8. chap. 13. In the Seſſions.

2. None may convey, ſell, or deliver any Horſe into *Scotland*, or any other foreign Country (without the Kings Licenſe, or for his Service in the Wars) in pain to forfeit the Horſe, and 40 l. And this offence, Juſtices in their Seſſions may hear and determine, upon 1 *Ed.* 6. chap. 5.

3. If a Horſe be ſtolen, and ſold in an open Market, and the true owner, or his Executors, ſhall come within ſix moneths after the ſtealing of it, and make his claim before any Juſtice, near to the place where the Horſe is found, the Juſtice muſt receive it. And if he ſhall within 40 days after his claim, make proof of his property by two Witneſſes upon Oath, before the Juſtice, and he ſhall pay to the buyer, ſo much as he before the Juſtice ſhall depoſe, that he *bona fide* gave for him, he ſhall have his horſe again. All this the juſtice muſt enter, upon 31 *Eliz.* chap. 12.

4. The ſeller, or exchanger of a Horſe in a Fair or Market, that is unknown to the Toll-taker, or Book-keeper, that doth not procure a credible witneſs known to him, to vouch the ſale of the

Horſe, the falſe Voucher, and the Toll-taker, or Book-keeper that ſuffers ſuch ſale, or exchange to paſs, ſhall forfeit 5 l.

5. The names of the buyer, ſeller, and Voucher, and price of the Horſe, is to be entred into the Toll-book, and a note thereof, under the Toll-takers hand, delivered to the buyer, upon 31 *Eliz.* 12. And this ſale and Voucher notwithſtanding, the right owner may redeem his Horſe, as before.

6. Every Owner of Fair or Market, where Toll is paid, muſt have a Toll-taker, and where none is payd, a Book-keeper, to ſit from ten a clock till Sun-ſet, in pain of 40 s.

(1) This Officer muſt within a day after the Fair, deliver to the Owner of the Fair, a Note of all the Horſes ſold there that day, in pain of 40 s. This Note, the Owner of the Fair muſt ſubſcribe.

(2) The Sale of a ſtolen Horſe in a Fair or Market, without entry in the Book, as before, and without ſtaying there in open view, by the ſpace of an hour at the leaſt, between ten of the Clock and Sun-ſet, ſhall not alter the property of the right Owner, but that he may ſeize or repriev him. Juſtices of Peace, may hear and determine theſe offences, in their Seſſions.

(3) Where no Toll is due, the Book-keepers Fee is paid, By Statute 2, and 3 *Phil.* and *Mar.* 7.

CHAP.

CHAP. XXX.

Of Forgery of Deeds, upon 5 Eliz. chap. 14.

1. IF any forge, or have his hand in the forging of any Deed, or Writing ſealed, Court-Roll, or Will in writing; to the intent, that the Freehold, or inheritance of another man of Land, may be troubled, defeated, or charged; or ſhall ſhew forth in Evidence any ſuch forged Writing, as true, knowing it to be falſe, he is to pay double coſts and damages, to be aſſeſſed by the Court, where the Conviction is, to be ſet on the Pillory in a Market-Town, or other open place, there to have both his ears cut off, his noſtrils ſlit, and ſeared with an hot Iron, to forfeit the Iſſues of all his Land, and be impriſoned during his life; and this for the firſt offence. The ſecond offence is Felony, without Clergy.

2. But neither Juſtices, nor Officers, ſuch as Ordinaries, Proctors, Lawyers, Attorneys, for writing a Will, or ſetting the Seal of Office to it, or for pleading, or giving in Evidence any ſuch forged Writing, not party, nor privy to the Forgery. Nor to ſuch as ſhall ſet their Seal to a Writing, not knowing it to be forged, is not to be taken within this Statute.

3. If any forge a Leaſe for years of Land, (not Copy-hold) or of an Annuity, Obligation, Bill, Acquittance, Releaſe, or other Diſcharge, of any perſonal, he is to pay double coſts to the party grieved, to be aſſeſſed as before, to be ſet on the Pillory, loſe one of his ears, and a years Impriſonment without Bail. In the Seſſions.

4. And

In the Sessions.

4. And the Justices in their Sessions, may hear and determine these offences, upon 5 *Eliz.* Chap. 14. But they have nothing to do out of Sessions in this.

CHAP. XXXI.

Of Forestallers, Regrators, and Ingrossers, upon 5 & 6 Ed. 6. Chap. 14. 13 Eliz. Chap. 25. 27 Eliz. Chap. 16. 1 Jac. Chap. 22.

Forestaller.

FIrst, He that shall buy, or contract for any Merchandize, Victual, or other thing in the way, before it is brought (by Land or Water) to any City, Port, Road, Fair, or Market, where it should be sold; or shall cause it to be so bought, or shall dissuade others from bringing any such Commodity to any such place, or (being brought) shall perswade them to enhance the price thereof, is a Forestaller.

Regrator.

2. He that buyes any Grain, Wine, Fish, Butter, Cheese, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pidgeons, Conies, or other dead Victuals, brought to a Fair or Market, to be sold there, and sell the same again in the same Fair or Market, or in some other Fair or Market, is a Regrator. And he that gets into his hands, by buying, contract, or promise, (other then by Demise, Grant, or Lease of Land, or Tythes) any Corn growing in the Fields, or other Grain, Butter, Cheese, Fish, or other dead Victual, with intent to sell it again, is an Ingrosser.

3. But the Buying of Barley, or Oats, to turn into

into Malt, Oatmeal, the buying of Provision for any Town Corporate, Ship, Castle, Fort, *Berwick*, *Holy Island*, &c. or any Fishmonger, Inholder, Victualler, Butcher, Poulterer, or people living within a mile of the main Sea, which use to buy and sell Fish, for any thing about their Mystery or Trade, they retailing the same at reasonable prices; or Badger, Lader, Kidder, or Carrier, assigned to that office by three Justices, and delivering the Commodity out of his hand within a moneth after he buyes it, or the taking of any thing reserved upon any Lease; or the buying of Grain in a Market for change of Seed, in case where he brings as much Grain the same day, and shall sell it if he can, at the price of Corn there; or the transporting of Grain or Cattel from one Port to another (by allowance of three Justices, and no forestalling) in case where he doth embarque the same, within 40 days of the buying thereof; and shall bring back from some Justice, or Head-Officer, a Certificate of their unlading, according to his Cocket, or a Dover allowed by three Justices, *Quorum unus*, that shall sell his Cattel at 40. miles distance from the place where he bought them, where such allowance is but for one year; or Wines, Oyles, Sugars, Spices, Currants, or other foreign Victuals, (except Fish and Salt) brought from beyond Sea: neither of these buyings and sellings shall be said to be either of these offences. But otherwise he that shall offend in either of the Cases before-named, for the first offence loseth the value of his goods bought or had, and is to be imprisoned for two moneths without Bail. For the second offence, the double value of the goods, and six moneths imprisonment without Bail. And for the third offence,

Ingrossers.

Out of Sessions.

all

all his goods, and to be set on the Pillory, and be imprisoned during the Kings pleasure. But the protestation must be within two years of the offence done. And he that buyes Grain in a Market for change of Seed, and doth not bring as much other Corn to sell the same day, forfeits double the value of the Grain so bought. And he that buyes any Cattel, and sells the same alive within five weeks, loseth double the value thereof. And while he keeps them, he is to keep them upon his own ground.

In the Sessions. 4. The Justices have power to hear and determine all these offences within their Sessions, in the ordinary way, or by the Testimony of two Witnesses. *Out of Sessions.* And out of Sessions, the Justices may do nothing about this, unless it be to give License to transport from one Port to another; and to give a Certificate of the unlading of Corn or Cattel within 40 days, as before is set down, upon 5 and 6 *Ed.* 6.14. 13 *Eliz.* 25.

5. In *Trin.* 9 *Jac. Co. B.* It was agreed by the Judges, That the buying of Wheat-meal, and the converting of it into Starch, is not within the Statute, *Owens Rep.* 134, 135. But if one buy Corn, and therewith make Meal, or Oatmeal, and sell it, this is within the Statute; and there said to be adjudged, That where one bought Barley, and it being of a great quantity, that he could not make it in his own house, he made it in another house, by his own servants. 1. That the conversion of Corn into Malt, in a mans own house, with an intent to sell it, is within the Statute. 2. That because it was in anothers house, that he is out of the Proviso, and so within the penalty of the Statute. *Owen. Rep.* 135. See *Cro.* 1. 426 167, 229.

CHAP.

CHAP. XXXII.

Of Gold, Silver, and Gold-Smiths, upon 3 H. 5. Chap. 3. 2 H. 6. Chap. 14.

FIrſt, None may guild Sheaths, or any Mettal but Silver, and the Ornaments of the Church; nor ſilver any Mettal, but Knights Spurs, and the Apparel belonging to a Baron, or above that Eſtate, in pain to forfeit ten times the value of what is ſo guilt, and to ſuffer a years Impriſonment, upon 8 *H.* 5. 3.

2. None may ſell any work of ſilver, unleſs it be as fine as *Sterling*, except what Sowder is neceſſary therein, upon 2 *H.* 6. 14.

3. None may put to ſale any Silver harneſs in *London*, before it be touched, and marked with the Gold-Smiths mark, firſt made known to the Wardens of that Craft, in pain to forfeit the double value thereof.

4. If the Keeper of the Touch mark ſuch Harneſs with the *Leopards* head, which is not as fine as *Sterling*, he forfeits the double value and damages to the party.

5. No Gold-Smith elſewhere, then in *York*, *Newcaſtle*, *Lincoln*, *Briſtol*, *Salisbury*, and *Coventry*, where is no Touch, ſhall put to ſale any work of Silver, under the fineneſs of *Sterling*, and ſhall ſet their Mark thereupon, before they put it to ſale, upon the like forfeiture. And *York*, and the places before-named, ſhall have ſeveral Touches (according to the Ordinances of the chief Officers there) upon the like forfeiture, upon 2 *H.* 6. 14.

6. The Juſtices (in their Seſſions) may hear and determine

determine of all the Offences within the Statutes of 8 *H.* 5. 3. and 2 *H.* 6. 14.

CHAP. XXXIII.

Of Guns, Croſs-Bows, &c. upon 33 H. 8. 6. 2 and 3 Ed. 6. 14. 1 Jac. 27.

1. ALL Offences about ſhooting in Hand-Guns, Croſs-Bows, Hagbut, or Demihake, and the like, upon the Statutes of 33 *H.* 8. Chap. 6. 2 and 3 *Ed.* 6. Chap. 14. 1 *Jac.* Chap. 27. are, and may be here determined. So the having in his houſe, or ſhooting in any ſuch thing by one that hath not 100 *l.* a year, in pain of 10 *l.* So the having or ſhooting in a Hand-gun, not a yard long, a Hagbut, or Demihake, not three quarters of a yard, in pain of 10 *l.* So the travailing with a Croſs-Bow bent, or Gun charged, but in time of War. And the ſhooting with ſuch a one within a quarter of a mile of a City, Borough, or Market-Town, except for the defence of himſelf or his houſe, or at a dead mark, in pain of 10 *l.* So the command of ones Servant to ſhoot in a Gun, or Croſs-Bow, or at a dead Mark, or in time of War, in pain of 10 *l.* upon 33 *H.* 6. 16. But Lords, Knights, Eſquires, and Gentlemen, and the Inhabitants of Cities, Boroughs, or Market-Towns, may keep in their houſes, and uſe to ſhoot at a dead Mark, Guns of the length aforeſaid. So may the Owner of a Ship, for the defence of his ſhip. So may he that dwells two Furlongs from a Town, or within five miles of the Sea; and ſuch a one may ſhoot at any Wild Beaſt or Fowl, ſave Deer, Heron, Shovelard,

In the ſeſſions.

land, Pheasant, Partridge, Wild-Swan, or Wild-Elk, 33 *H.* 6. 6. Also, a Servant may use his Masters Cross-Bow, or Gun, of the length aforesaid, so as he shoot at no Fowl, Deer, or other Game, by the same Law.

2. 'Tis by 1 *Jac.* 27. provided, That if any shoot at, or kill with any Cross-Bow, Stone-Bow, or Long-Bow, any Pheasant, Partridge, House-Dove, or Pigeon, Hern, Mallard, Duck, Teal, Widgeon, Grouse, Heath-cock, Moregame, or any such Fowl, or any Hare, that the Offender, upon proof of the same, by his own Confession, or the Oath of two Witnesses, before any two Justices of Peace, of the same place where the Offender dwells, or is apprehended, he may by them be sent to the Common-Gaol for three moneths without Bail; unless he forthwith do pay into the Church-Wardens, to the use of the poor of the place, where the offence is committed, or Offender apprehended, 20 shillings for every such Hern, Fowl, or Bird so killed. (See there also a Provision for the Eggs of Pheasants, Partridges, and Swans.) Or unless he shall within a moneth after his commitment, with two sufficient Sureties, become bound in a Recognizance, never to do so again. And this any two Justices of the place where the Offender dwells, or is taken, may take; and, having taken, must return to Sessions. Out of Sessions.

3. The Justices (in their Sessions) have power to hear and determine all the offences, upon 33 *H.* 3. 6. Power also is given by that Act to convey the Offender to the next Justice, who, upon Examination and Proof, may commit him to prison, till he satisfie the Penalty. In the Sessions.

4. All that presume to shoot, but such as are allowed

allowed by the Statute, are to present their Names (if in a Corporation) to the Head-Officer; if, in the County, to the next Justice, to be recorded in the next Sessions, in pain of 20 s. But the Justices have no further to do upon this Law, of 2 and 3 *Ed.* 6. 14.

5. But one Justice may take the Presentment of him that useth a Hand-Gun by License, by 2 and 3 *Ed.* 6. 5.

CHAP. XXXIV.

Of Corn and Grain, upon 5 Eliz. Chap. 12. 13 Eliz. Chap. 13. 3 Car. Chap. 4.

In the Sessions.

1. NOne may take upon him, but a married man, and a Housholder, of the age of 30 years at least, to be a Badger, Lader, Kidder, Carrier, Buyer, or Transporter of Corn or Grain, Butter and Cheese, without a License in open Sessions, under the hands of three Justices, *Quorum unus*; such as is in Licenses, *Chap.* 7. under pain of 5 *l.* and this License to be in force for one year only. And Licenses otherwise made, than according to the Statute of 5 *Eliz.* 12. are void.

2. This License and the Recognizance taken with it (if any be taken) the Clerk of the Peace is to enter, and to have for his Fees, for writing the License 13 *d.* for the Recognizance 8 *d.* for entring both in a Register-Book 4 *d.*

3. The Badger that hath this License, may not buy Grain out of an open Fair or Market to sell again, unless there be special words in his License to warrant it, in pain of five pound for every offence.

4. But

4. But Purveyors of Cities and Towns Corporate, and the Inhabitants of the Counties of *Westmerland*, *Cumberland*, *Lancaster*, *Chester*, and *York* are excepted out of this Statute of 5 *Eliz.* 12. In the Sessions.

5. The Justices have power to hear and determine any of the Offences upon this Statute.

6. Justices in their Sessions, as they may License, so they may prohibite the Transportation of Grain at their discretion: But their Order for it must be approved by the King or his Council. And this Order the King (if he see cause) may by his Proclamation countermand, when Corn may be transported. See 13 *Eliz.* 13. 3 *Car.* 4. Transportation of Corn.

CHAP. XXXV.

Of Habeas Corpus, Certiorari, Writ of Error, and Supersedeas, upon 5 Eliz. 42. 13 Eliz. 13. 3 *Car.* 4.

AS to the *Habeas Corpus*, being to remove a Prisoner and his Cause, from before the Justices, into a higher Court, upon supposal that they had done, or will do, illegally; the *Certiorari* being to remove a Cause and Record, from before the Justices into a higher Court: The *Supersedeas* from a higher Court, to forbid the Justices further proceeding; And the *Writ of Error*, to undo what hath been done before by the Justices; these things are to be known. *Habeas Corpus*, What? *Certiorari*, What? *Supersedeas*, What?

1. That Process of the Peace, and Good Behaviour, may not be had out of the *Chancery*, or *Kings-Bench*, but upon motion in open Court, and good cause shewed in Court upon Oath, to be

indorsed upon the back of the Writ. And if the cause be after found false, the Judges there may send the Offender to Prison, till the party grieved be paid all his costs and damages, 21 *Jac.* 8.

2. All Writs of *Supersedeas* shall be void, but what is had upon motion, as is aforesaid; and upon sufficient Bond, with Sureties of Subsidy-men, rated at 5 *l.* in Lands, or 10 *l.* in Goods; and unless the prosecution appear to be *bona fide*. And here false Sureties procured, to gain such Writs, shall be punished by the Judges.

3. The Justices, where such a Writ is duly granted, and brought to the Justice, they must obey it; for it is penal to them, if they do not so. And therefore, if the Justices have sent out their Warrant, to command the doing of that, the Writ forbiddeth, they are to recal, and countermand their Warrant. And it is dangerous for Justices of Peace, to proceed upon a Record, after a *Certiorari* is sent to them to remove it. *Crook* 1. Part, 438.

4. It is dangerous for a Constable to do any thing, upon a Justice of Peace's Warrant, after a *Certiorari* shewed to them; for he may be bound to the Good Behaviour for it.

5. Every *Habeas Corpus*, and *Certiorari*, to remove a Record, or Prisoner, ought to be signed by one of the Judges of the Court from whence it comes.

6. A *Certiorari* shall not be allowed, and the Justices may refuse to send away an Indictment, upon any such Writ, if it be for a Riot, forcible Entry, Assault and Battery, except the Writ be delivered in to the Justices of Peace, upon Quarter-Sessions, sitting in the Court, and except the

party

party indicted will be bound with good Sureties, to pay the Profecutor his Coſts. But in caſe of Indictments for a Forcible Detainer, or for any other offence than what is before named, it is otherwiſe, 21 *Jac.* 8.

7. If the Writ do not require the ſending away of the Recognizance, which the Juſtice hath taken, he is to ſend the Writ and the Recognizance to the next Seſſions, to be filed there.

8. The Judges that do ſend for any ſuch Record, or Priſoner, may (if they pleaſe) ſend it back again to the Juſtices, to be determined by them, by 6 *H.* 8. 6. *Steels Rep.* 475, 322, 399.

CHAP. XXXVI.

Of Hunters, Hawkers, Fowlers; and Hunting, Hawking, and Fowling.

AS to this, theſe things are to be known: *Sect.* 1.

1. That all the Offenders about Hawking, Hunting and Fowling, upon 1 *Jac.* Chap. 27. 3 *Jac.* Chap. 13. 19 *H.* 7. Chap. 11. 1 *H.* 7. Chap. 7. 7 *Jac.* Chap. 11, 13. 5 *Eliz.* Chap. 21. 13 *R.* 2. Chap. 13. may be heard and determined in the Seſſions. *In the ſame ons.*

2. That by 13 *R.* 2. It is provided, That no Lay-man that hath not 40 *l.* a year, nor Clergy-man that hath not 10 *l.* a year, is to keep a Grey-hound, Hound, Dog, Net, Ferret, Engine to kill Deer, Hares, Conies, or other Gentlemens Game, under pain of a years Impriſonment. *In the Seſſions:* *Greyhound, Ferret, Nets &c.*

3. That by 19 *H.* 7. c. 11. none ſhall keep any Deer-Hays, or Buckſtalls (ſave in his own

Deer, Hare-Conies, Heron.

Forrest or Park) under pain of 40 *s.* a moneth. None may stalk with a Bush or Beast to any Deer but in his own Park or Forrest) under pain of 10 *l.* None may take an old Heron (but in his own ground) in pain of 6 *s.* 8 *d.* Nor a young Heron, in pain of 10 *s.* And these Offenders, any two Justices may commit to Prison, till they have satisfied the Forfeitures, whereof they are to have the tenth part, but no way of Conviction; and therefore not to be done out of Sessions.

4. That by 3 *Jac.* Chap. 13. none (without the Owners License) may kill or chase any Deer or Conies, in any Park, or incloſed ground, in pain of 3 moneths Imprisonment, and to pay treble damages to the party grieved, and to be bound to the good Behaviour for 7 years, or stay in Prison till he be so bound. And by 7 *Jac.* Chap. 13. it is in the Election of the party grieved, to have ten pound, or treble damages for the wrong.

Red or Fallow Deer.

5. To course, or kill, or hurt any Red or Fallow Deer, in any Forrest, or other place where they are usually kept, is 20 *l.* forfeiture. And any one, or more Justices, within six moneths after the Offence done, may by Oath of one or more Witnesses, convict the Offender of the offence; and then, by Warrant under his Hand and Seal, cause it to be levied by distress and sale of goods, returning the overplus; the one moiety to the Informer, and the other moiety to the Owner of the Deer. And, for lack of distress, he may send him to the House of Correction for six moneths, to be set hard on work; or he may send him to the Common Gaol for a year without Bail, at the choice of the Justice. And then the Offender to be bound to the good Behaviour for a year, upon 13 *Car.* 2. *Pag.* 59.

Out of Sessions.

Correction House.

6. That

6. That if one, not having 40 *l.* a year in land, or 200 *l.* in Goods or Chattels, use any Nets, Guns, or other such Devices, to kill Deer or Conies, (unless he hath some Park of his own) he that hath 100 *l.* a year land, may take it from him to his own use. Deer, Conies. In the Sessions.

7. That by 19 *H.* 7. Chap. 11. None that have not Forrests or Parks of their own, may keep any Deer-Hays, or Buckstals, in pain of 40 *l.* for every moneth he keeps them. And that none shall stalk with any Bush or Beast to a Deer, in another mans Park, without his consent, in pain of 10 *l.* There the taking of Herons is forbidden. Herons.

8. If any man shall hunt any Deer or Conies, in any Parks, Forrests, or Warrens, in the night disguised. In this case, any one Justice of Peace upon complaint to him made thereof, may send his Warrant to the Sheriff, or any Bailiff, or other Officer within the County, to arrest, or bring the Offender before him to be examined, and may examine him; and if he deny it, it is Felony; and the Justice is so to prosecute it. But if he confess it, he is only to bind him over to the next Sessions; and there he is to be fined for it, by 7 *H.* 7. chap. 7. But hunting in a Coniger, that is not a free Warren, it seems is not within this Statute. *Sess.* 2. Felony. Out of Sessions. In the Sessions.

9 By the Statutes of 3 *Jac.* Chap. 13. and 7 *Jac.* Chap. 13. it is provided, That if any one, by night or by day, shall break into another mans Park impaled, or several Grounds inclosed with Wall, Pale, or Hedge, used and kept for breeding, and feeding of Deer or Conies; and there hunt, drive, or chase out; or take or kill any Deer or Conies within any such place, against the will of the Owner, he is to be imprisoned three moneths, and In the Sessions.

pay to the party grieved his treble damages; and give Sureties for the Good Behaviour, for 7 years, unless the party grieved, shall (in the open Sessions) within the 7 years release him thereof: or the Offender come there and confess his fault, and the Justices there, as they may, discharge him. This not to be extended to any Ground, after that time, to be Inclosed to that use, without the Kings License.

10. That if any one that hath not 40 l. a year in Land, or 200 l. in Goods or Chattels, shall use any Gun or Bow, to kill any Deer or Coneys, or keep any Buckstals, Hayes, Ferrets, Coney-Dogs, Nets, or the like Engines, to kill any Deer or Conies, except it be one that hath such an Inclosure of Coneys or Deer, worth 40 l. a year for himself, or Warreners and Keepers: Any one that hath Land in Fee, or for Life, in his own, or his wives right, may take away such Guns or Bows, or Ferrets, &c. and keep them to himself, by 3 Jac. Chap. 13. Guns.

11. No man is by day or night to break down or destroy the Head or dam of any Fish-Pool, Pond, or place where Fish are, to kill, or take away the Fish; or shall take away the Fish there, against the Owners will, in pain of Imprisonment for three monethes, and to pay to the party grieved his treble damages. And to be after bound with Sureties to his Good Behaviour for 7 years. So if he take away Hawks, or Hawks Eggs, out of anothers ground, upon 5 Eliz. 21.

12. That none may hawk, or hunt in another mans ground, where Corn or other Grain doth grow, at such time as the same is standing or growing, not before it is put in Shocks, or Cocks, in In the Sessions.

pain

pain to forfeit 40 *s.* to the owner of the ground. This is punishable in the Sessions.

13. Any two Justices may upon the Statute of 1 *Jac.* Chap. 27. keep a Special Session, and therein hear and determine all the offences within that Statute, as at the General Sessions. *Sect.* 3. Special sessions. Out of the General Sessions.

14. If any man kill any Hare in the Snow, he shall forfeit 6 *s.* 8 *d.* for every Hare so killed, upon 14 and 15 *H.* 8. Chap. 10. But this punishment is not to be inflicted out of the Sessions. Tracing a Hair in the snow. In the Sessions.

But by 1 *Jac.* Chap. 27. It is provided, that if any with Gun or Cross-Bow, kill any Hare, he must pay 20 *s.* to the poor of the place, or be sent to prison three moneths without Bail, or enter into a Recognisance with Sureties, never to do so again.

But by 1 *Jac.* Chap. 27. It is provided, That if one shoot at, or kill a Hare, or trace, or course any Hare in the Snow; or at any time take, or destroy any Hare with Hare-pipes, Cords, or such like Engines. And for this, any two Justices of the place, where the offence is done, or offender apprehended, may commit him to the Gaol for three moneths without Bail, unless he forthwith pay to the Churchwardens, to the use of the poor, for every Hare so killed, taken, or coursed, 20 *s.* or enter into a Recognizance to two Justices in 20 *l.* not to offend so again. And the two Justices may convict him by his own confession, or by the Oath of two witnesses. See chap. 33. of Guns, &c. Killing a Hare. Out of sessions.

15 None may take any Wild-foul, as Ducks, Mallards, Wigeons, Teales, Wild-geese, and the like, between the last of *May*, and the last of *August*, with Nets, or such like Engines, in pain of 2 years Imprisonment, and 4 *d.* for a Fowl. Nor may any destroy, or take away the Eggs of any Wild-Fowl, Wild-Fowl.

Fowl, in pain of 20 d. an Egg, and imprisonment for a year. 25 *H* 8. chap. 11. And the Justices in their Sessions, may hear and determine these offences. And yet 1 *Jac.* chap. 27. for the taking or killing of any House-Dove, Pigeon, Hern, Mallard, Duck, Teale, Wigeon, Goose, Heath-cock, Moregame, he may, the offence being confessed, or proved by two witnesses upon Oath, before 2 Justices, be by them committed to prison for three moneths, without Bail, unless he pay forthwith to the Church-wardens there for the poor 20 s. for every Fowl.

Out of Sessions.

Pheasants & Partridges.

16. As to the killing, or labour to kill Pheasants or Partridges, take this,

Sect. 4.

1. That by 11 *H.* 7. chap. 17. it is provided, That none may take or kill Pheasants or Partridges in another's ground against his will, by any Net, or like Engine, in pain of 10 l. And other provisions are there about Hawks, and Hawks and Swans Eggs. See the Statute.

In the Sessions. Taking Pheasants & Partridges by Nets.

2. That none may take, or kill any Pheasant, in pain of 20 s. Partridge in pain of 10 s. if it be in the night time. And if the forfeiture be not paid within a moneth after the conviction, then to be imprisoned one moneth without Bail. And further, that the offender put in bond with good Sureties, not so to offend again within two years. And this Recognisance any one Justice may take, also one Justice may examine the suspected offender, and if he see cause, take Sureties for his appearance at the next Sessions. But if he refuse to pay the penalty, or to be bound to appear in Sessions, it seems the Justice can do no more therein out of the Sessions. 23 *Eliz.* And upon this Statute, the Justices in the Sessions may hear & determine any of the offences named in the Statute; and any one Justice

Out of Sessions.

tice may examine Witneſſes out of the Seſſions, by the latter branch of the Statute.

But by 7 *Jac.* chap. 11. it is provided againſt this offence, that two Juſtices of the County where the offence is done, or a party apprehended, may upon the parties Confeſſion, or proof of one Witneſs upon Oath, be ſent to the Goal for 13 moneths without Bail, unleſs he forthwith pay to the place 10*s.* for every Pheſant or Partridge ſo killed, & to be bound in a recogniſance of 20*l.* not ſo to offend again. And this any one Juſtice may take, and then muſt return it to the next Quarter-Seſſions.

17. It is provided by 1 *Jac.* chap. 28. that if any ſhoot at, deſtroy, or kill any Pheſant or Partridge, or other Fowl (named in the Statute) with any Gun, Bow, with ſetting-Dogs, or Nets, or ſuch like Inſtrument; he is upon proof thereof, upon Oath of two Witneſſes, or upon his own Confeſſion, before two Juſtices of the place where the offence is done, or offendor apprehended, to be by them committed to Goal for 3. moneths without Bail, unleſs he pay to the Church-wardens of the place, to the uſe of the poor there, 20*s.* for every Pheſant, Partridge, or Fowl, ſo taken or killed.

18. If any hawk at, or kill any Pheſant or Partridge with any Hawk or Dog, between the firſt day of *July*, and the laſt day of *Auguſt*; In this caſe, any two Juſtices of the County wherein the offender dwells, or is apprehended, may within 6. months after the offence done, upon proof thereof by the Oath of two Witneſſes before them, commit the offender to the Common Goal of the place, wherein the offender dwells for a moneth without Bail, unleſs he do forthwith pay to the Church-wardens, or Overſeers of the poor of the place, 40*s.*

for

for every time he so hawketh, and 20 s. for every Pheasant and Partridge so killed. But he may not be punished for this, after 6. moneths time after the offence done, by 7 *Jac.* chap 11. And by that Statute also, any two Justices may give a Warrant under their hands to any Constable, or such like Officer to search for, and to spoil, and kill all such Setting-Dogs and Nets, as they shall find.

19. He that is punished upon 1 *Jac.* chap. 27. is not to be punished upon any former Statute. And he that is punished upon 7 *Jac.* chap. 11. is not to be punished again for the same offence.

Keeping a Grayhound, Setting Dog, or Nets.

20. If any man that hath not 10 l. a year of his own Inheritance, or 30 l. a year of his Free-hold, or 200 l. in goods, or is the eldest Son of a Knight, or greater man, shall keep any Gray-hound, Dog, or Nets, to take Partridges or Pheasants. In this case any two Justices upon suspition thereof, may send their Warrant to search in places where they suspect, for them; and give the Searchers power, if they find any, to kill the Dogs, and tear the Nets. And they may also, upon the confession of the party, or proof thereof by two Witnesses, send him to Goal for three moneths, unless he forthwith pay to the Church-wardens of the place where, &c. the 40 s.

In or out of Sessions.

upon 1 *Jac.* chap. 27. And if any such unqualified person, kill or destroy any Pheasants or Partridge, by night or by day, by Nets or otherwise; any two Justices upon his Confession thereof, or Oath of one Witness, may send him to the Goal for a moneth, unless he forthwith pay to the Churchwardens or Overseers of the poor, where, &c. 20 s. for every Pheasant or Partridge so killed, upon 7 *Jac.* chap. 11.

21. If any man buy or sell any wild Partridge, Pheasant,

ant, Deer, or Hare; Any two Justices of the ce where, &c. upon the Confession of the party, Oath of two Witnesses, may commit him to ail for 3 moneths, without Bail, unless he forth- with pay to the Churchwardens of the place where, &c. 40 s. for every Deer; 10 s. for every Hare, Partridge, and 20 s. for every Phesant; or untill e enter into a Recognisance with 2 Sureties, never to do so again. 1 *Jac.* chap. 27. 3 *Jac.* chap. 13.

CHAP. XXXVII.

Of Masters, Servants, Labourers, Artificers, and Apprentices.

Sect. 1. First, Artificers, Work-men, or Labourers, that conspire together, concerning their Work or Wages, shall forfeit, for the first offence, 10 *l.* to the King; and if not paid within 6 weeks after Conviction, (by Witness, Confession, or otherwise) he shall suffer 20 days Imprisonment; and, during that time, shall have no sustenance but bread and water. For the second offence, shall forfeit 20 *l.* and that not paid within 6 days as aforesaid, shall suffer the Pillory. And, for the third offence, shall forfeit 40 *l.* and that not paid within the said time, shall again suffer the Pillory, lose one of his Ears, and be ever after taken as a man infamous, and not to be credited, by Stat. 2 and 3 *E.* 6. 15.

Conspiracy of Artificers &c.

2. Justices of Assize, of Peace, Mayors, Bayliffs, and Stewards, in Sessions, Leets, and Courts, have power to hear and determine these offences. But, *Quare*, Whether this Branch of this Statute, be not repealed by the general words of 5 *Eliz.* 4.

Justices power herein.

3. All former Statutes, about hiring, keeping, departing,

departing, working, wages, or order of Servants, VVork-men, Artificers, Apprentices, and Labourers, are repealed, 5. *Eliz.* 4.

Special sessions.

4. Any two Justices of the Peace (whereof one of *Quorum*) may twice a year, between *Mich.* and *Christmas*, and *Lady-Day*, and *John Baptist*, for three days at a time, keep a special Sessions only, to enquire and severely punish the offences against the Statute of 5 *Eliz.* 4. about hiring, keeping, departing, working, wages, and order of Servants, VVorkmen, Artificers, Apprentices, and Labourers. And the Justices are to have, each of them, 5 *s.* a day out of the Forfeitures, for the time the Sessions last, for their pains herein.

5. None shall hire, or be hired, for less time then one whole year, in the Arts of Clothier, VVoollen-VVeaver, Tucker, Fuller, Cloth-Worker, Sheerman, Dyer, Hosier, Taylor, Shoo-maker, Tanner, Pewterer, Biker, Brewer, Glover, Cutler, Smith, Farrier, Sadler, Spurrier, Turner, Lapper, Hatter, or Belt-maker, Fletcher, Arrow-head-maker, Butcher, Cook, Miller.

Sect. 6.

6. Every person unmarryed or under the age of 30 years (though marryed) having been brought up in any of the Arts aboveſaid, by the space of 3 years, and not worth in Lands 40 *s. per annum*, or in goods 10. *l.* (and so allowed under the Hands and Seals of two Justices of Peace, the Head-Officer, or two discreet Burgesses of the place, where the party so brought up hath lived, by the space of one whole year,) not already retained in Husbandry, the Arts aboveſaid, or any other Art or Mystery, or in any service (upon request of any person using the same Art) shall not refuse to serve for the wages, limited by the Statute, being so retained,

One that refuseth to serve.

shall

shall not depart from his or their service, without a Quarters warning, before two lawful Witnesses, or some lawful cause, to be proved before one Justice of Peace, or Head-Officer, in pain of Imprisonment, without Bail. But upon submission to perform the service, they shall be enlarged without Fees; which commitment and enlargement, two Justices of Peace, the Head-Officer, or two Burgesses, as aforesaid, to whom complaint shall be made, have power to command, as in their discretions, and upon due proof, shall be thought fit.

One that being hired, departeth. The Justices or Mayors power out of Sessions.

Two Justices power.

7. Every person, between the ages of 12. and 60. not already retained in any service, nor imployed about Husbandry, Mines, Glass, fishing, sailing, provision of Grain, or Meal for *London*; not Gentleman born, nor Scholar in an University or School, not worth 40 s. *per annum*, in Lands, or 10 l. in goods, not having Father, Mother, or other Ancestor, (whose Heir he is) worth 10 l. *per annum*, in Lands, or 40 l. in goods, shall be compelled to serve in Husbandry; and shall not depart that service, otherwise then is before limited, upon the pain above expressed.

Who must serve in *Husbandry*.

8. None shall put away his Servant, before the end of his term, without a Quarters warning, or some lawful cause to be proved by two Witnesses, before the Justices of *Oyer* and *Terminer*, *Assize*, Peace, in Sess, a Head-Officer, or two discreet Aldermen or Burgesses, in pain of 40 s.

To put away a Servant during his time.

9. No Servants having served in one City or Town, shall get to serve in another, without a testimonial, *viz.* (in a Town Corporate, under the Seals of the Town, and two Housholders there, and in the Countrey, under the Seals of the Constable, or Constables, and two Housholders there; which

Sect. 3. Testimonial of a Servant.

testimonial

testimonial shall be made, and delivered to the party, and also registred by the Minister of the place where the Servant dwelt; for which the Minister is to have 2 d. the form of the Testimonial is thus.

Mayor, &c.

That A. B. Servant to C. D. of J. in the County of E. Husbandman, or Taylor, &c. in the said County, is licensed to depart from his said Master, and is at his liberty to serve elsewhere, according to the Statute in that case made and provided: In witness, &c.

The Servant which sheweth no such Testimonial to the chief Officer in a Corporation, or to the Minister or some Officer in any other place, where he is to dwell, shall suffer imprisonment till he procure one; and if he produce none within 21 dayes after his imprisonment, or shew a false one, he shall be punished by whipping as a Vagabond, and the Master that retains a Servant without such a Testimonial, shall forfeit 5 l.

The times of work in the day.

10. Those that work by the day, or work, shall continue at work, betwixt the middle of *March*, and the middle of *September*, from 5. in the morning, till betwixt 7. and 8. at night, except two houres allowed for breakfast, dinner, and drinking, and half an hour for sleeping, from the midst of *May*, till the middle of *August*, and all the rest of the year, from twi-light to twilight, except an hour and an half allowed for breakfast, and dinner, on pain, to have one penny defalked out of their wages, for every houres absence.

To leave ones work before it be done.

11. None that takes work by great, shall leave the same before it be quite finished, except for non-payment of his wages, the Queens Service,

License

License of the Work-master, or other lawful cause, on pain to suffer one moneths imprisonment without Bail, and to forfeit 5 l. to the party grieved; besides his costs and damages to be recovered at the Common Law, for the losse sustained.

Departure out of Service without License.

12. None retained in Service to work, shall depart without License, on pain of one moneths imprisonment.

Sect. 4. Assessment of Wages.

13. Such wages of Labourers, Artificers, and others as have been formerly rated, or concern Husbandry, shall be yearly assessed for the County, by the Sheriff and Justices of Peace in Sessions, and in Corporations by their Head-Officer at their Easter Sessions, or within 6. weeks after and before the 24th of *July* following, shall be certified under their Hands and Seals, in the Chancery: whereupon, the Lord Chancellor or Keeper, shall send down printed Proclamations thereof, into every County and Corporation, before the first of *September*, then next following, which the said Sheriffs, Justices, and head-Officers, shall before *Michael-mas* after cause to be Inrolled, and Proclaimed. But when the old Rates shall be certified to stand, no Proclamation is needful. See after, *Numb.* 39. 40.

Proclamation of it. Justice punisht for omission of his duty.

14. A Justice of peace, or chief Officer, which shall be absent at the rating of wages (being not letted by sickness, or some other reasonable cause to be allowed by the Justices, upon Affidavit, shall forfeit 10 l.

Giving above the Rate.

15. None shall give greater Wages, then those so rated (as aforesaid) on pain of 5 l. and 10 dayes imprisonment without Bail; and if any shall be convicted before two Justices of Peace, or a Head-Officer, of taking more Wages, he shall suffer 21 dayes Imprisonment without Bail.

16. Every

16. Every retainer, promise, gift or payment of Wages, or other thing contrary to the true meaning of this Act, and every Writing and Bond to be made for that purpose, shall be void.

Power of a Justice: Abuse of the Master by the Servant. Mayor, &c.

17. If any Servant or other, shall be convicted before two Justices of Peace, or a chief Officer, as aforesaid, by his own Confession, or Testimony of two honest men, to have assaulted his *Master*, Mrs. Dame, or Overseer, he shall suffer one years imprisonment, or lesse, if the Justice or chief Officer shall think fit; and if the party shall be thought to deserve a more severe punishment, then to receive such open punishment (life and member excepted) as the Justices in Sessions, or the chief Officer, and 4 of the discreetest men in the Corporation, shall think convenient.

Justices power in Sessions.

Labourers in the Harvest time.

18. Artificers shall work in Hay-time and Harvest, on pain of Imprisonment in the Stocks two dayes and one night, which the Constable shall inflict upon them, on pain of 40 s.

19. It shall be lawful for Labourers not retained to go to other Shires to work in Hay-time and Harvest, so they bring with them a Testimonial under the Hand of one Justice, or a chief Officer, testifying, that they have not sufficient work in that place where they lived the Winter before; for which Testimonial they shall only pay a peny.

A Justices power.

Out of Sessions.

Justices power. Out of Sessions.

20. Every unmarried Woman (fit to serve) above 12 and under 40. shall by two Justices, a chief Officer, or two Burgesses, be compellable to serve for convenient time and wages, on pain of imprisonment.

Powers compellable to serve.

Sect. 5. Husbandmen. What Apprentices they may take.

21. Husbandmen being Housholders, and using half a Plow Land (at least) in Tillage, may take by Indenture Apprentices, above the age of 10 years;

years, and under 18. to serve in Husbandry, till the age of 21 at least, or 24. as the parties can agree.

What Apprentices may be taken.

22. Every Householder, of the age of 23. years dwelling in a Town Corporate, and using there any art or Mystery, shall and may take an Apprentice for 7. years at least: howbeit, the term ought not to expire before the Apprentice accomplish the age of 24 years.

Justices power. Out of Sessions.

23. Merchants, Mercers, Drapers, Goldsmiths, Ironmongers, Embroyderers, and Clothiers dwelling in Corporate Towns, shall take no Apprentices, but their own Children, or such whose Parents have Inheritance or Freehold of 40 s. *per annum*, to be certified under the hands and Seals of 3. Justices of Peace of the County where such Lands lie, to the Head Officer of the said Corporation, who shall cause the same to be recorded. And Merchants, Mercers, &c. the like Tradesmen dwelling in Market-Towns not corporate, shall take no Apprentices but their own Children, or such, whose Parents have Inheritance or Freehold, worth 3 l. *per annum*, to be certified under the Hands and Seals of three Justices of Peace, as aforesaid.

Corporation.

24. Smiths, Wheel-wrights, Plow-rights, Mill-wrights, Carpenters, Rough-Masons, Plaisterers, Sawyers, Lime-burners, Brick-makers, Bricklayers, Tylers, Slaters, Helyers, Tile-makers, Linnen-Weavers, Turners, Coopers, Millers, Earthen-Potters, Woollen-Makers (of Housewifes Cloth onely), Fullers, Wood-burners, Thatchers and Shinglers, may take Apprentices, where their Parents have no Land.

None may use a Trade, not Apprentice to it.

25. None which hath served an Apprentice seven years, in any Art or Mystery, shall use the same, or set any other to work therein, which hath not so served out that time, on pain to forfeit 40 s. for every moneth.

Cumberland. Westmerland. &c. What Apprentices may be taken there.

26. Woollen-Cloth-Weavers (except such as inhabit *Cumberland*, *Westmerland*, *Lancaster*, or *Wales*, or in Cities, Corporations, or Market-Towns) shall take no Apprentices, nor teach any their Art (save their own Children) or such whose Parents have Inheritance or Freehold, worth 3 l. *per annum*, to be certified under the Hands and Seals of 3. Justices of the County where the Land lies, on pain to forfeit 20 s. for every moneth, and the Indenture shall within 3. moneths be registred in the Parish where the Master dwells; the Fee for which is 4 d.

Journeyman to be kept.

27. Every Cloth-worker, Fuller, Sheer-man, Weaver, Taylor and Shooe-maker, shall for every three Apprentices, keep one Journey-man, and for every Apprentice above three, another Journey-man, on pain of 10 l. But this Act shall not prejudice Worsted-makers, nor Worsted-Weavers in *Norwich*, or *Norfolk*.

Sect. 6. Mayor of a Corporation.

28. If any person fit to make an Apprentice, refuse to serve upon demand, one Justice of Peace, Mayor, or Head-Officer, to whom complaint thereof shall be made, have power to commit him to Ward, till he be willing to serve.

Justice of Peace power out of Sessions.

29. And if there shall arise any difference betwixt the Master and the Apprentice, one Justice of Peace, Mayor, or Head-Officer in any Corporation or Market-Town, shall have power to reconcile it, if they can; if not, to bind over the Master to the next Quarter Sessions, where the Justices of Peace, or any four

one of them, (1 *Qu.*) or the Head-Officer, with the consent of three of his Brethren, shall (upon default found in the Master) in writing under their Hands and Seals, have power to discharge the Apprentice of his Service; and if default be found in the Apprentice, to inflict such punishment, as in their discretion shall be thought fit.

Who may be bound Apprentice.

30. None shall be bound to enter into an Apprentiship, but such as are under the age of 21 years.

City of *London* &c

31. This Act shall not restrain the City of *London* and *Norwich*, from taking Apprentices, as in time past.

Apprentices taken against this Law.

32. None shall take Apprentices otherwise then is limited in this Act, on pain of 10 l. and all Indentures otherwise made, shall be voyd.

Indentures for Apprentices void.

33. An Apprentice shall be bound by his Indenture, notwithstanding his non-age of 21 years.

Apprentices under 21 years old.

34. The Inhabitants of *Godalming* in *Surrey*, may take and use such Arts and Apprentices, as Market-Towns may do, by vertue of this Act.

Godalming in *Surrey*.

Fines Corporations.

35. The Fines accruing, by this Act in Towns Corporate, shall be appointed by the Head-Officer to be collected, as other Fines and Amerciaments, for the use of the same Towns.

The Forfeitures, how to be disposed.

35. All the Forfeitures, upon this Statute of 5 *Eliz.* (but such as are otherwise appointed by the Statute) shall go between the Queen and the Prosecutor, by 5 *Eliz.*

The power of the Justices.

37. All Justices of Peace, or any of them, *Quorum unus*, and Head-Officer may hear and determine the breach of this Statute, upon Indictment, or otherwise, and award Process and Execution accordingly; and must yearly, in *Michaelmas* Term, by Estreats, certifie into the *Exchequer*, the

Fines accruing by this Statute, as they do in other Cases.

Departure of an Apprentice from his Masters service,

38. When an Apprentice departs from his Masters service, into another County or Corporation, it shall be lawfull for the Justice, or Head-Officer, there (being Justices of Peace) to direct a *Capias* to the Sheriff, or other chief Officer, for his apprehension; and, being taken, to commit him to Ward, till he give good Security, that he will honestly serve out his time.

Justices, or Mayors power.

Sect. 7.

39. This Law notwithstanding, the High-Constables may keep their Statute-Sessions; so as therein they do nothing contrary to this Statute, 5 *Eliz.* 4.

Rating of Wages of Labourers.

40. By the Statute, 1 *Jac.* 6. the Statute of 5 *Eliz.* 4. shall give power to Justices of Peace, to rate the Wages of any Labourers, Weavers, Spinsters, and Work-men, or Work-women whatsoever. And the rating of Wages in Sessions, by the more part of the Justices, within any particular Riding or Division (where General Sessions have been used severally to be kept) shall be as effectual, as those rated by the General Sessions of the whole County, 1 *Jac.* 6.

Out of Sessions.

Proclamation by the Sheriff of the Rates.

41. The Sheriffs and Head-Officers, within their several Precincts shall cause the said Rates so to be proclaimed in such sort, as if they had been sent down printed from the Lord Keeper, which all persons shall be bound to observe, upon the pain and penalties mentioned in the said Statute of 5 *Eliz.* 4. 1 *Jac.* 6. See before, *Sect.* 4.

The Office of the Justice of Peace.

42. *A* Clothier, or other, convicted before the Justices of *Assize*, or Peace, in their Quarter-Sessions or before two Justices, (one of the Quorum) by his own Confession, or Evidence of two Witnesses,

Witnesses, not to have observed the said Rates, by paying less, shall forfeit 10 *l.* to the party grieved, to be levyed upon Warrant, from the same Justices, by distress and sale of goods, by 1 *Jac.* 6. Out of the Sessions.

43. None shall incur any danger, for not making Certificate of the Rates into the *Chancery*, according to 5 *Eliz.* 43. by 1 *Jac.* 6. Certificate.

44. A Clothier, being also a Justice of Peace, shall not be a Rater of wages, for any Artificer that depend on making of Cloth, by 1 *Jac.* 6. No Clothier to be Justice.

45. Justices of Peace, in their several Divisions, and Head-Officers in Towns Corporate, shall meet twice every year, (*viz.*) once between *Michaelmas* and *Christmas*, and another time betwixt the *Lady-Day* and *Midsummer*, to give order for the execution of this Statute. And these Justices, and others, shall have 5 *s.* a day a piece, for every day they sit, upon this work only, not above 3 days at one time, out of the Fines arising by the breach of the Statute, by 5 *Eliz.* 4. Justice of Peace his Office. Their Wages.

CHAP. XXXVIII.

Of the giving of an Oath.

ANy one Justice may minister Oaths in the Cases hereafter following, out of their Sessions, (*viz.*) 1. The three Oaths to be taken by the Officers of the *Militia*, or by their Souldiers, upon 14 *Car.* 2. Out of Sessions.

2. So any one Justice may give the Oath to him that desires Surety of the Peace against another.

3. So to the Under-Conservators of Rivers.

4. Any one Justice of the County, where a Robbery is done, dwelling in, or near to the Hundred where it is done, may within 40 days of the Robbery, take his Oath that is robbed, that he did know, or did not know, any of them that did commit the Robbery; and if he knew either of them, take his Recognizance to prosecute him, upon 27 *Eliz. Chap.* 13.

To a Recusant. 5. Any one Justice, of the four, that do License a confined Recusant to travail, may give him the Oath, appointed by the Stat. of 3. *Jac. Chap.* 5.

6. So any one Justice may give the Oath of Allegeance, Obedience, and Supremacy, upon 1 *Eliz. Chap.* 3. 4 *Jac. Bulstrode* 2 Part, 155. See *Chap.* 14. So in some Cases, the Iustice may require it, 1 *Eliz.* 1. 5 *Eliz.* 1. 7 *Jac.* 6.

7. One Justice may give the Oath to High-Constables, Petit-Constables; which is thus: *You shall swear, that you shall well and truly execute the Office of High-Constable of the Hundred of* H. *or of Petit-Constable of the Parish of* H. *and Liberties thereof, to the best of your skill and power, untill another be chosen in your room, or you be discharged by Order of Law.*

Out of Sessions. 8. Any two Justices may (out of Sessions) minister Oaths in the Cases following. (*viz.*)

1. Any two Justices of the County, wherein an Officer is chosen into the Excize Office, may give to him the Oath of Supremacy, Allegeance; and for the execution of his Office, upon 12 *Car.* 2. And this he is to certifie at the next Sessions. 2. So to Overseers of Cloth, upon 5 *Ed.* 6. *Chap.* 2. 39 *Eliz. Chap.* 20. 43 *Eliz. Chap.* 13. 3. So to the Overseers of them that are infected with the Plague,

Plague, upon 1 *Jac. Chap.* 31. 4. So there muſt be two Juſtices of the City, or Corporation, wherein there are Juſtices; or of the County, wherein the Corporation is, may (in ſome Caſes) tender and adminiſter the three Oaths and Declaration, to the Members of the Corporation, upon 13 *Car.* 2. 5. There muſt be two Juſtices, *Quorum unus*, without Commiſſion, and out of Seſſions, to give the Oaths to Under-Sheriffs, their Bayliffs, Deputies, and Clerks, at the firſt entrance into their Offices, upon 27 *Eliz. Chap.* 12. 6. So to give the Oath to the Collectors, for the Sheriffs *Amerciaments*, for the County-Court, upon 11 *H.* 7. *Chap.* 15. 7. Any two Juſtices may give the Oaths of Allegeance and Supremacy to a Poſt-Maſter General, who is to take the ſame Oaths before them, ere he can be capable by the Office, by 12 *Car.* 2. 8. It is in 13 *Car.* 2. declared, That the Oath of the *Solemn League and Covenant*, was, an Oath impoſed unduly, and againſt the Laws and Liberty of the Nation. 9. For the Oath of Supremacy and Allegeance, ſee *Chap.* 8. Sect. 4.

CHAP. XXXIX.

Of Offices, and Officers.

Sect. 1. Out of Seſſions.

FIrſt, any two Juſtices may, out of Seſſions, make Searchers, for Tile, upon 17 *Ed.* 4. *Chap.* 4.

2. So Overſeers of Cloth, upon 3 and 4 *Ed.* 6. *Chap.* 2.

3. So

3. So two Justices, *Quorum unus*, may appoint Overseers of the Poor for the Parish, upon 43 *Eliz. Chap.* 2.

4. One Justice may, for some miscarriages of an Officer, bind him (perhaps) to the good Behaviour, and to appear at Sessions.

Corporation. In the Sessions.

5. Searchers of Brass and Pewter, in every City and Borough, is to be appointed by the Head-Officers thereof; and in the County, by the Justices at their *Michaelmas* Sessions, by 19 *H.* 7. 6.

6. Any one Justice or more Justices, what they may do in the choice of Constables. See *Constables.*

7. And every Justice, being Conservator of the Rivers, may choose another, or others under them, to oversee them, upon 17 *R.* 2. *Chap.* 9.

8. But the Treasurers, for relief of poor maimed Souldiers and Mariners, and for the *Kings-Bench* and *Marshalsea*, and for the relief of the prisoners in the Gaol, and the rest that are Treasurers for the County, and Masters for *Bridewell*, and such like County-Officers, are to be chosen in the Session. And there they are to be punished for most of their miscarriages, 43 *Eliz.* 3. 14 *Eliz.* 3. 30 *Eliz.* 4. 7 *Jac.* 4.

In the Sessions.

9. And yet one Justice may (out of Sessions) punish the default of Sheriffs, by not returning good Jurors, to enquire in a case of Forcible Entry before him upon 8 *H.* 6. *Chap.* 9.

10. So one Justice may call a Watch-man to an account, for the Execution of his Office; and if he find him faulty, bind him to the Good Behaviour, or cause him to be indicted.

11. And any two Justices may call the Treasurers of the County-Stock, High-Constables, Petty-

petty-Constables, and others their Executors, or Administrators, to an account, who have been formerly trusted with the County-Stock, and have not accounted, and force them to pay over the money in their hands to the Treasurers, upon 43 *Eliz.* and 14 *Car.* 2.

12. And two Justices, by Order of Sessions, may levy, by sale of goods, and Fine imposed by Sessions, on the Treasurers of the County, for neglect in their Office, upon 43 *Eliz.* chap. 2.

13. None may be an Escheator, or Deputy to him, unless he have 20 l. a year Free-hold in the County, worth 20 l. a year, in pain of 40 l. His Deputy or Farmer must be a sufficient man, and is to certifie his Deputation within twenty days after it is made, in pain of 40 l. And these offences, Justices in their Sessions may hear and determine, by 12 *Ed.* 4. 9.

14. Stewards, Bayliffs, and other Ministers of Liberties, are to attend the Justices, and make due execution of the Process, to them directed within their Liberties, upon 27 *H.* 8. 24. 32 *H.* 8. 20.

15. The Officers that are made by this Court, and do most properly attend upon it, are to be punished in it; yet, in many cases, they may also be punished in other Courts.

SECT. II.

Of Sheriffs.

First, The Sheriff is at the next County Court after he shall receive the Writ for the Assessing *Sect.* 2.

of

of the Wages of the Knights of Parliament, to make Proclamation, that the Officers and others appear at the next County-Court, to do the work. And there the Sheriffs and Officers must be present, and make the Assessment upon every Hundred by it self, according to the direction of the Statute: And more then what is rated, may not be levied upon any place, under the penalties named in the Statute. And that which is rated, is to be levied speedily, and to be paid in to the Knights for the Parliament. And if any offence be herein, the Justices may punish it in their Sessions, upon 23 *H.* 6. chap. 11.

In the Sessions.

Out of Sessions.

2. Any two Justices (*quorum unus*) may give the Under-Sheriff, his Bayliffs of Franchises, Deputies, and Clerks, their Oaths; which they are to take, before they meddle with their Office, in pain of 40 l. 27 *Eliz.* 12. And two such Justices may overlook his Books of Amerciaments, and seal the Indentures of his Estreats, and swear his Bayliffs, to levy no more than is in the Estreats, upon 12 *H.* 7. 15. But any one Justice may examine the Collectors of his Amerciaments in his County-Court, if they gather more then is upon the Estreats; and if he find it, certifie it into the *Exchequer*, upon 11 *H.* 7. 15. 27 *Eliz.* 12.

3. One Justice may punish his offence, in not returning good Jurors, to enquire of a Forcible Entry, upon 3 *H.* 6. 9.

Out of Sessions.

4. If the Sheriff, in his County-Court, shall enter a Plaint, in the name of one not present there himself, or by his Attorney, or shall not see that the Plaintiff do put in his Pledges, or he enter more Plaints then one, or more then the Plaintiff desires for the same cause; or if there shall be a proceeding

in

his Court against one, that hath no Summons to appear. Any one Justice may examine the Sheriff, or any of his Officers; and if he, by their Confession, or otherwise, do find it true, he is to certifie it into the *Exchequer*, under pain of 40 *l.* upon 11 *H.* 7. 15. But for all other offences punishable upon a Sheriff, wherewith the Justices have to do, it is to be done in the Sessions; and so they may punish them, upon 23 *H.* 6. 10. For the letting of his Bayliwick to Farm, for returning upon Inquest a Bayliff, Steward, or other Servant of his; for taking any thing for arresting, or for omitting to arrest, but for the Sheriff 20 *d.* for the Bayliff 4 *d.* that made the Arrest; and to the Gaoler 4 *d.* when the party is committed; and punish the Sheriff, or any other Officer, for taking above 4 *d.* the pannel. And so they may be punished, if they have not Deputies in the Courts at *Westminster*, to receive Writs: or if they set not to Bail persons arrested by them that have sufficient in the County, and that are not in Prison by Condemnation, Execution, *Capias Utlagatum*, Excommunication, Surety of the Peace, or committed by the command of the Justices; or Vagabonds, refusing to serve upon reasonable Sureties; or if he return a *Cepi Corpus*, or *Reddidit se*, and have not the body at the return of the Writ. And if he, or any of his Officers, shall take Bond of any arrested person, but for his appearance, and to themselves only, and take above 4 *d.* for it, all such Bonds taken by them, *Colore Officii*, are void. So also, they may punish the Sheriff, Coroner, or other Officers, (having returned Writs) upon 27 *Eliz.* 7. That shall return any Juror, without addition of the place where he dwells; or that shall levy Issues of any other person,

In the Sessions.

ſon, than ſuch as he hath Eſtreats for: So alſo he and other of his Officers, may be there puniſhed, if they enter into, and take upon them their Office, before they have ſworn the Oath, ſet down in the Statute, before two Juſtices of Peace, upon 27 *Eliz.* 12. But they have nothing to do at all, in or out of Seſſions, upon Stat. *De finibus levatis, Articuli Super Chartas*, 8. 13. Stat. *De Attinctis*, 2 *Ed.* 3. 4, 12. 4 *Ed.* 3. 9, 15. 5 *Ed.* 3. 14. 14 *Ed.* 3. 7, 9. 28 *Ed.* 3. 7, 9. 42 *Ed.* 3. 9. 1 *R.* 2. 11. 1 *H.* 4. 11. 4 *H.* 4. 5. 1 *H.* 5. 4. 4 *H.* 5. 2. 23 *H.* 6. 8. 1 *Ed.* 4. 2. 12 *Ed.* 4. 1. 17 *Ed.* 6. 6. 11 *H.* 7. 15. 6 *H.* 8. 18. 34 *H.* 8. 16. 2 & 3. *Ed.* 6. 4, 34. 8 *Eliz.* 16. 29 *Eliz.* 4. 43 *Eliz.* 4. 21 *Jac.* 5.

CHAP. XL.

Of Printing Seditious, Treaſonable, and Unlicenſed Books and Pamphlets, And for Regulating of Printing, and Printing-Preſſes.

AS to this, take theſe things:

1. That no man is to Print, or cauſe to be Printed, here or beyond Sea, any Heretical, Seditious, Schiſmatical, or offenſive Books, or Pamphlets, wherein any Doctrine ſhall be aſſerted, contrary to the Chriſtian Faith, Doctrine, or Diſcipline of the Church of *England*; or tending to the Scandal of Religion, the Church, or the Government thereof, State, or Common-wealth; or of any Corporation, or particular perſon: Nor ſhall import, publiſh, ſell, or diſpoſe of any ſuch Book: Nor ſhall cauſe or procure any ſuch Book to be publiſhed,

ſhed, or put to ſale; or to be bound, ſtitched, or ſowed together.

2. That no man is to Print, or cauſe to be Printed, any Book or Pamphlet, unleſs the ſame be every part of it firſt entred into the Regiſter-Book of the Company of Stationers in *London*, except Acts of Parliament, Proclamations, and ſuch as ſhall be appointed to be Printed, by Warrant under the Kings Sign Manual, or under the hand of one or both of the Kings Principal Secretaries of State; or (if Books of Law) by Licenſe of the Lord Chancellour, one of the Chief Juſtices, or Chief Baron, or by one of their Appointment. Of Hiſtory, by one of the Principal Secretaries of State, or one of their Appointment. Of Heraldry, &c. by the Earl-Marſhal, or one of his Appointment, or ſuch others, as it is in the Act. All other Books by Licenſe of one of the Arch-Biſhops, or Biſhop of *London*; or by one of their Appointment; or one of the Chancellors, or Vice-Chancellors of the Univerſity. And the Licenſer is to have a Copy of the Book, to be diſpoſed, as is ſet forth in the Act: Or, if it be in Engliſh, two Copies, if the Licenſer require it; with the Licenſers hand, that there is nothing in the Book againſt the Act. And an Inſcription of his Name, by whom it is Licenſed.

3. That Books from beyond Sea, ſhall be brought into no Port, but into *London*, without leave of one of the Arch-Biſhops, or Biſhop of *London*; nor until they have been ſearched.

4. That no Book brought from beyond Sea, is to be Printed here, but by Licenſe, as the Books here made are Licenſed, under pain of 6 *l.* 8 *d.* a Book.

5. That

5. That the Printer do upon every Book, set down his own name, and the name of the Author of the Book, under pain to forfeit the Books.

6. That no man shall put another mans name on any such Book, under pain to forfeit the Books.

7. That none but a Free-man of *London*, or one that hath served seven years at the Trade; or one licensed by the Bishop of the Dioceſs; may buy Books to sell them again, upon pain to forfeit them.

8. That no *English* Book printed beyond Sea, shall be brought in here, under pain to forfeit it.

9. That no Alien may sell any such Book printed beyond Sea, without License of the Arch-Bishop of *Canterbury*, or Bishop of *London*.

10. See more for Printing Playes, and the Regulating of the Trade, in the Act.

In the Sessions. 11. The Justices may (in their Sessions) hear and determine any of these Offences, and there impose such further punishment for the same, by Fine and Imprisonment, or other corporal punishment, not extending to life, or limb, as they please. And they are to certifie every year into the *Exchequer*, what they do impose for these things, upon 14 *Car.* 2.

In the Sessions. 12. Any one, or more Justices, may at their Sessions, take a Recognizance of 300*l.* of him that is to be allowed the use of a Printing-Press, or Printing-House, not to print, or suffer to be printed in his House, or Press, any Book, but such as is lawfully licensed, upon 14 *Car.* 2.

Out of Sessions. 13. Any two Justices may hear and examine by two Witnesses, the offence of a Journey-man Printer, or Founder of Letters for Printing, that shall refuse employment, being offered it by a Master-Printer,

printer, or Founder of Letters; or that ſhall neglect it, when he hath undertaken it, and commit him to the Common Gaol, for three moneths, without Bail, by 14 *Car.* 2. But it is not ſaid, Examine upon Oath, nor how he ſhall be convicted. And therefore it ſeems, that by this, the Juſtices may not do any thing, but in a Seſſions-way by Indictment, &c. Caution to Juſtices.

14. If any perſon be brought before one or more Juſtices, by the Searchers, authoriſed to look after unlicenſed Books: For that offence, any one, or more Juſtices, may commit him to Priſon, till he be tryed for the offence, by 14 *Car.* 2.

CHAP. XLI.

An Act for Carriages for the King.

Anno 13 *Car.* 2. *cap.* 8.

IT is provided, That the chief Officer of the Kings Carriages, do, three days before his arrival, by Warrant from the *Green-Cloth*, give notice by writing, to two of the Juſtices there near adjoyning, to provide ſuch Carts and Carriages as he ſhall need, and ſet the time and place they ſhall attend with them; each of them to have four able Horſes, or four Oxen and two Horſes: For each of which, the owner is to have 6 d. for every mile he ſhall go laden. Under pain, upon proof, by the Oath of the Officer, or any two Witneſſes before the ſame Juſtices, of forfeiture of 40 s. to the King, to be levied on him that refuſeth, or neglecteth, by diſtreſs and ſale of goods, rendering the overplus.

Provided

Provided, That they be paid in hand at the loading-place, and that no Cart go above a days journey from the place he receives his loading.

(2) That if any Justice, Constable, or other Officer take any gift or reward to spare, or shall impress more then he is directed to impress by the *Green-Cloth*, he shall forfeit 10 l. to be recovered in any Court of Record.

(3) That if any person take upon him to impress Horses, Oxen, Carts, or Carriages, otherwise then as before, he is to be punished by the former Act.

(4) Any two Justices near the Road where the King is to pass, after notice from the *Green-Cloth*, or *Avenor*, are to set down under their Hands and Seals the Rates and Prices to be paid by the King, during his abode there, for Hay, Oats, and other Accommodations for Horses, as they shall think fit: And cause the same, a day before the King come there, to be proclaimed in the next Market-Town to the place.

(5) The Kings Servants are for themselves to have a Bed for 12 d. and for their Servants for 6 d. And where they pay for their Dyet, or for Hay and Provender for their Horses, they are to have their Lodging for nothing.

(6) If any take for Lodging, Horsemeat, Stable-room, or other Accommodations, more then before is set down, being convicted of it as before, he shall forfeit to the party grieved 40 s. to be levied by distress, by Warrant from the same Justices, and sale of goods, rendering the overplus. This Act to continue to the end of the first Session of the next Parliament.

In 14 *Car.* 2. cap. 20. For the Navie and Ordnance,

Ordnances, it is provided, for having Carriages for them, That upon notice in Writing by Warrant from the Lord High Admiral, or by Warrant under the Hands and Seals of two principal Officers of the Navie, or under the Hand and Seal of the Maſter of the Kings Ordnance, or of his Lieutenant, for the providing of Carriages for the Navie, or Ordnance of any two Juſtices near the place where Carriages is required: The ſame Juſtices ſhall ſend their Warrants to ſuch Hundreds, Pariſhes, or places thereabouts, not above twelve miles from the lading place, to ſend ſuch number of Carriages, with Horſes and Oxen, as the Lord Admiral for the time being, Maſter of the Ordnance, or Commiſſioners for the Navie ſhall require. And the Owners of which Carriages ſhall have for every load of Timber 12 d. by the mile; And for every Tun of other Commodities 8 d. by the mile. And to make proviſion for carriage by water, the ſame Officers are to ſend to whom they think fit, to provide for them: but to preſs no veſſel whatſoever (if other Shipping and Boats may be had really freighted by Charter-partie) nor any Veſſel quarter laden with any Goods or Merchandize outward bound. That ſuch as fail to provide for Land-Carriages as before ſet down, ſhall forfeit 20 s. to be levied by diſtreſs and ſale of goods, rendring the overplus, upon proof as before, by Warrant from the ſaid Juſtices of Peace. And that ſuch as fail, to provide Ships, Boats, and the like for carriage by Sea, ſhall forfeit treble the freight of the Ship or Veſſel ariſing to any ſum under fifty pound, to be levied by diſtreſs and ſale of goods, rendering the overplus, upon proofe of Witneſſes before the Officers before

named, as they shall make, and by their Warrant.

Provided, That no Waynes, or Carts be forced more days Journey from the place of their lading, or continue longer in the same Imployment then shall be appointed by order of the said Justices of Peace. And that ready payment be at the place of lading after the Rates aforesaid.

(3) That if any such Officer before named, being to command a provision for Carriage by Sea, or Justices of Peace, Constable, or other Officer, shall take any gift or reward to spare any person for favour, or grieve any for ill will, or shall impress more then the necessity of the service shall require, he shall forfeit, upon proof of it, 10 l. to the party grieved.

(4) That if any take on them to press Plower, &c. so for Land Service, or Ships, &c. for Water Service, other then the persons aforesaid, that they be punished according to the former Acts.

(5) The Justices of the County of *Southampton*, when they summon Carts and Carriages in that County, they may for the carriage of Timber (if they see cause) allow no more to the Owners of the Carts but 4 d. a mile, for so many miles as any Cart or Carriage summoned shall go empty to the place where they load.

And now by 12 *Car.* 2. cap. 24. it is provided, That no Purveyance of Victuals or Carriage for the King, Queen, or their Children be in the old way, without the Owners consent: And if any be, any two Justices neat about the place, and the Constable of the place, upon complaint of the party grieved, may commit the Offender to the Gaol till the next Quarter Sessions, and then to be proceeded against for it; and the party grieved may

may have his Action against the Offender, and recover treble damages, and treble costs. And if any in such a case procure delay, or unduly hinder Judgement and Execution, he shall be in danger of a *Præmunire*. But here is no way set for the Justices to convict the Offender of his offence, and therefore not to be done without advice: and yet perhaps the complaint of the party, in a thing so notorious, may be held sufficient. Caution to the Justices

And no pre-emption is now allowed to the King, or his Family in, or out of Market, but it is free to the Subjects to dispose of their goods as they please.

CHAP. XLII.

Of Prisons, and Prisoners; and Keepers of Prisons.

ABout these things are to be known:

1. That the Gaols that were in the Sheriffs Custody, were re-joyned to their Baylwicks, and they are to put in such Keepers, for whom they will answer, 14 *Ed.* 3. Stat. 1. 10.

2. That the Kings Castles and Gaols, that were wont to be joyned to the Bodies of Counties, and were severed, shall be re-joyned, 13 *R.* 2. chap. 15.

3. Justices are to imprison none, but in the Common-Gaol, saving to Lords their Franchises, where they have any, 5 *H.* 8. chap. 10.

4. The Sheriff of every County, is to have the keeping of the Gaol of the County, except such a one as doth hold by Inheritance or Succession, Lease for Life, or years. And all Letters-Patents

hereafter made to any, for life or years of such Gaols, are to be void: The *Kings Bench* and *Marshalsey*, excepted.

In the Sessions. 5. Felons are to be committed to the Common Gaol, and not elsewhere; and the Sheriffs to keep these Gaols, and to be allowed in their Accounts, for repair of them, 23 *H.* 8. chap. 2.

Rate for the Prisoners in Gaol. 6. Justices (in Sessions) may Rate the County (not above 6 d. or 8 d.) a Parish a week in the year) towards the relief of the Prisoners in the Gaol. This the Church-wardens must levy every *Sunday*, and pay quarterly to the High-Constable; or (if it be in a Corporation) to the Head-Officer: and he is to pay the same to the Collectors thereof, appointed by the Justices; who are to distribute it weekly to the Prisoners, in pain of 5 l. for any of these Officers failing of his duty herein.

Out of Sessions.

Corporation. 7. In a Corporation, the Justices are not to meddle, but the Mayor and Head-Officer thereof, 14 *Eliz.* chap. 5.

Charge of an Offender sent to Gaol. 8. The Offender that is to be carried to Gaol, is to bear his own charge, and the charge of them that attend him. If he refuse it, one Justice may send his Warrant to the Constable of the place, where he hath goods within the County, to sell so much thereof, as to satisfie the charge, by appraisement of the Neighbours, returning the overplus. And if he have no Goods, the Constables, Church-wardens, and two or three others of the Parish; or, in want of such Officers, four of the chief men of the Parish, where he is taken; may make a Rate for it: which being allowed by one Justice of Peace's hand, is to be paid. And if any man refuse, the Justice may send his Warrant to the Constable, Tythingman, or other Officer, and give him

Out of Sessions.

power

power to levy it by distress, and sale of goods, after appraisement, rendring the overplus, 3 *Jac.* Chap. 10.

CHAP. XLIII.

Of Rates.

1. THere must be two Justices under their Hands and Seals, to approve of the Rate made by Constables, and such like Officers of Parishes, with the Church-wardens, Overseers and Inhabitants of the place, for the discharge of the Constable, for the charge he hath been at in the relief and Convey of Rogues with Passes, or to the House of Correction, and to give Warrant under their Hands and Seals, to levy it by distress and sale of goods, upon 14 *Car.* 2.

2. Two Justices in each County, may tax every City and Borough of the County where they dwell, towards the Wages of the Burgesses within the Shire-Towns. And this tax must be rated and distributed upon the Inhabitants of the places, by 4 or 6 discreet Burgesses thereof, and then levied and paid to the Burgesses of Parliament, upon 35 *H.* 8. chap. 13.

3. The Justices in their General, or in a Special Sessions, may rate the Wages of Labourers, Weavers, Spinners, and Workmen, upon 1 *Jac.* 6. 5 *Eliz.* 4. within any particular Division. And these are to be prosecuted, as if they were at the publick Sessions.

4. So there must be two, and one of the Quorum, to rate and give Warrant to levy the Rate set

upon any persons of other Parishes of the Hundred, for the help of a Parish, not able to keep its own poor, upon 43 *Eliz.* chap. 2. So for a Rate set upon a Hundred, for the relief of a poor Souldier, or Mariner, that is come from Sea, and wanteth work or relief, upon 39 *Eliz.* chap. 17. and by 4 *Eliz.* 5. the Justices in Sessions may rate the whole County for relief of Souldiers and Mariners, and cause it to be levied and imployed for Souldiers and Mariners.

5. So to carry a prisoner to Gaol, where he hath not goods to be sold to bear the charge of it, the Constables and Church-wardens, and two or three others of the Parish, or, for lack of such Officers, by 4 sufficient men of the place where he was taken. And any one Justice of Peace, by putting of his Hand to it, may confirm it, and afterwards give his Warrant under his Hand, to levy it by distress, and sale of goods, and return the overplus, it being praised by four Inhabitants, and so to pay over the money to him that did bear the charge of the Convey of the Prisoner, upon 3 *Jacobi* Chap. 10.

6. Any one Justice may allow of, and sign the Rates made by the Surveyors of the High-wayes, with 3 or 4 of the substantial men of the Parish, for the repair of the High-ways, where the ordinary 6 days work will not do it, so it exceed not 6 d. a pound in the Parish through the whole year, upon the new Statute of 14 *Car.* 2.

7. Where a Hundred upon a Robbery done, and a Suit brought by the party robbed, is chargeable for the money lost; and default found by the Hundred in prosecution of the Felon, and the one half of that money is recoverable upon that Hundred,

by

the party robbed, in the name of the Clerk of the Peace of the County. And where damages are recovered againſt one, or ſome few Inhabitants of the Hundred, and the reſt refuſe to contribute thereunto; any two Juſtices, *quorum unus*, living near the place, may rate every place within the Hundred, for the levying of it. And according to this Rate, the Conſtables of every place, *ex officio*, are to tax the Inhabitants of the place, and to levie the money, and pay it unto one of the Juſtices, upon 27 *Eliz.* chap. 13.

8. Any two Juſtices may rate the parts adjacent, for the relief of a place infected with the Plague, and by Warrant under their Hands and Seals, cauſe the ſame to be levied by diſtreſs and ſale of goods, or by impriſonment, in caſe of lack of diſtreſs, upon 1 *Jac.* chap. 31. 21 *Jac.* chap. 28.

9. If Pariſhioners, and the Conſtables, and Church-wardens thereof, cannot agree in the diſtribution of the Rates of the Juſtices, for the Kings Bench, Marſhalſey, &c. any one Juſtice living near to the place, may ſet the Rate. And if then they neglect to levie it, any one Juſtice may give Warrant to levie it, by diſtreſs and ſale of goods. And, for lack of diſtreſs, ſend the party to priſon, till he pay it, upon 43 *Eliz.* chap. 2.

10. The like, ſave only Commitment, may one Juſtice of Peace do, in caſe of default by the Pariſhioners and Conſtables, for the Rate ſet by the Juſtices for the relief of maimed Soldiers, and Mariners, upon 43 *Eliz.* chap. 3.

11. Four Juſtices, *quorum unus*, and no leſs may enjoyn the County to amend a Bridge, or the Highway within 300. foot of it, and for that purpoſe, ſet a Rate upon every man, which they, the Con-

stables, and two of the Inhabitants of every Parish, and not otherwise, must make in Parchment in every Hundred, under the Justices Seals, and then delivered to the Collectors, they are to make to be levied, upon 5 *Eliz.* Chap. 13. 18 *Eliz.* Chap. 9.

12. The Justices may, and, as it seems, out of Sessions, set down the Rates that the Brewers of Ale and Beer within the County, shall sell by their Barrels, Kilderkins, or Firkins of Ale or Beer, which they may not exceed, upon 23 *H.* 8. 34. But perhaps the fittest place for this may be in the Sessions. And the Justice hath nothing else to do about Vessels, than what the Justice may do in the Rate for the poor. See *Poor*, chap. on *Beer*, upon 23 *H.* 8. 4. or 8 *Eliz.* 9.

13. And as for other Rates, if any other there be to be made, they must be made in the Sessions. So the Rate for Relief of Prisoners in the Gaol, upon 14 *Eliz.* chap. 5. For the Kings Bench and Marshalsey, and maimed Souldiers and Mariners, upon 43 *Eliz.* 2. 3.

14. About Free-Quarter, there is nothing now to be done by the Justices, upon the 19th of *Decemb.* 1648. or the 24 of *Decemb.* 1647.

Sect. 3. Labourers. In the Sessions.

15. The Rating of Wages for Labourers and Servants, must be yearly, at the Quarter-Sessions after *Easter*, or within 6 weeks after, and cannot be at any other time, or in any other place, 5 *Eliz.* 3. 1 *Jac.* 6. 39 *Eliz.* 2. 1 *Jac.* 25. And at this Session, they must examine how it is observed.

Prisoners in the Kings Bench, &c.

16. And at this Sessions, they are to make their Rate upon the County, for the Relief of the Prisoners in the Kings Bench and Marshalsey, by 43 *Eliz.* 3.

17 At

17. At one of their Sessions, they are yearly to make the Rate upon the County, for the Relief of the prisoners in the Common Gaol, by 1 *Jac.* 25. 14 *Eliz.* 5. Prisoners in the Gaol.

18. And at the Sessions after *Easter*, they are yearly to make their Rate upon the County, for the relief of the maimed Souldiers and Mariners, by 43 *Eliz.* 3. Mariners and maimed Souldiers.

19. And at the Sessions after *Easter*, the Justices may, if they see cause, set another Rate upon the County for the Mariners and maimed Souldiers, not exceeding 2 s. 6 d. a week, nor under 3 d. a week on a Parish: this to be rated by the persons, and under the penalties, and in the manner of the Statute of 43 *Eliz.* 3. Mariners and maimed Souldiers.

CHAP. XLIV.

Of Recognisances, and the discharge of them, and of Bail and Mainprise, and Superseders.

1. A Recognisance is a Bond of Record, testifying, that the Recognisor doth owe a certain sum of money to our Soveraign Lord the King, with Condition, that the Recognisor shall do some other thing, for the which he is bound in that sum in the nature of a penalty: wherein take these things first of all. Recognisance, what?

2. Any Bailment or Mainprise (which is a kind of Recognisance) is the saving or delivering of a man out of prison, before he hath satisfied the Law, by taking Surety of him, that he shall appear and do it.

3. Any Recognisance that may be taken by one of

or two Justices out of the Sessions, may be taken all the Justices in the Sessions. And there Justices may at their discretion take Recognizanc of Badgers, Liders, Kidders, Carriers, Bu or Transporters of Corn, or Grain, Butter Cheese, that they shall not forestal, or ingross put in practise any thing contrary to 5 and 6 E 6. 14.

3. The Justices of *Glocester* and *Hereford* are to bind with good Sureties, the keepers of Fe ries over *Severn*, in Recognisances, not to tra sport any Passenger or Cattel out of *England*, *Wales*, or the Forrest of *Dean*, or from either o those places into *England*, before Sun-rising, a after Sun-set, unless they be such as they know, and will answer for, by 26 *H.* 8. 5.

4. Any two Justices may take a Recognisance of 20 l. of one convicted for killing of Hares, no so to offend again, upon 1 *Jac.* 27. So of him that is convict of killing Hares and Partridges, upon the same Statute, and 3 *Jac.* 13.

5. There must be 2. *quorum unus*, to bail a Prisoner bailable for Felony; and there must be two Justices in all cases, where any Statute-Law doth give two Justices power to bail.

6. And it seems, two may bind the Keepers of Ferries with Sureties, from the transporting of Men and Cattel over *Severn*, that they pass none before Sun-rising, or after Sun-set, out of *England* into *Wales*, or *Dean-Forrest*, or from thence into *England*, upon 26 *H.* 8.

7. But any one Justice will serve to take a Recognisance in a case, where by a Statute, one Justice is enabled to do it, as of such as keep or use Houses of unlawful Games; or of the Master that shall abuse

his Servant for his appearance at Sessions; or that is robbed, that intends to be relieved of the Hundred; or of such Hawkers as take Badges in Corn; or of such as are suspected to Log-wood. And others, as of a Maltster to o- a Sessions-Order, for the restraint of Malt-ing.

8. And any one Justice may take a Recogni- for the Peace or good Behaviour, or for a appearing at the Assizes or Sessions, as an Offender, or to prosecute or give Evidence against Offender, and in some cases to Bail a Prisoner, but there must be two Justices to bind Alehouse-keepers.

9. A Clerk within Orders, being Principal, or accessary in Treason, Murder, Sacrilege, Burglary, Robbery, or House-breaking, may not be admitted to his purgation, nor be enlarged by the Ordinary, until he shall have bound himself with two Sureties, before two Justices [*coram uno*] to be of good Behaviour, upon 23 *H.* 8. 1.

10. And every Justice is to see to it, that the Recognisances that he alone, or he with any other Justice takes, be returned into the Assizes, or Sessions, as the case is, before the Judges, or Justices there; to the end they may proceed upon it, as by Law is required. So the Justices, at the next General Sessions, are to certifie the Recognisances taken for keeping the Peace. 3 *H.* 7. chap. 1.

11. Here in Sessions, he that is bound by Recognisance, to the good Behaviour for 7 years, for unlawful hunting, breaking of the head of a Pond, or the like offence, upon his acknowledgement thereof, and giving of satisfaction to the party wronged, the Court may discharge him, either at this,

this, or at any other Sessions. And if the offender shall at any open Sessions, confess his fault, and give satisfaction to the party wronged, he may release him within the seven years. 3 *Jacobi* 21. 5 *Eliz.* 21.

Release of Surety of the Peace.

12. If a Justice grant Surety of the Peace, at the request of another, and a Recognisance is given to keep the Peace against *A.* only; in this case, *A.* before the next Sessions may release it, and none other; and this Release being certified, will discharge the party of his appearance.

13. If a Justice upon his own discretion, compel one to give Sureties for the Peace until a day; he may also at his own discretion, release the party thereof, before the day, if it be not forfeited, and this Release will discharge his Bond for his appearance.

14. If one be bound to the Peace during life, or generally without any time or day limited; in this case it seems, that neither the King, nor the Justices, nor party, can discharge the Recognisance, during the life of the party bound. *Lamb.* J. P. 203.

15. If the Recognisance be to keep the Peace *versus cunctum populum*, & *precipue vers.* J. S. yet J. S. may release it. And yet in these Cases, albeit the Surety of the Peace be released, yet the Recognisance is not to be cancelled; for perhaps it was forfeit before the Release made, but it must be certified with the Release into the Sessions.

Mainover.

16. It is said, that a Justice of Peace may not bind over an offender against a penal Law, within the Justices Conusance, upon the Law, or by the Commission, except it be in a special case where the

Statute it ſelf doth enable him to do it. And ſome would have it otherwiſe.

SECT. III.

Preſidents for Recogniſances.

Every Recogniſance muſt have theſe things in it.

1. The time of making it.
2. The Juſtices name before whom.
3. The names of the perſons bound, with the additions of their places of Habitation, Trade, &c.
4. The ſum they are bound in.
5. It muſt be made to the King, and in his own name.
6. If for the Peace, to appear at the next Seſſions of the Peace; if for Felony, at the next Gaol-Delivery, after this manner.
7. And all this muſt be in *Latine*, and may not be in *Engliſh*.
8. It is beſt to make them in Parchment; but being in Paper, they are good in Law.
9. What Sureties to have, and in what ſum to be bound, is left to the Juſtices diſcretion. But if the Juſtice do it upon a Statute Law, which doth ſet down what Sureties ſhall be taken, or what ſum ſhall be given, then he is not to do it otherwiſe.
10. The Juſtice need not affix his Seal to the Recogniſance taken before him.

Memorand. quod primo die Decemb. Anno Regni Domini noſtri Caroli Secundi, Dei gratia, Anglie,

glia, Scotia, Francia, & Hiberniæ Regis, fidei defensoris, &c. vicesimo primo A. B. de D. in Com. G. Husbandman, in propria persona sua venit coram me W. S. armigero, uno justiciarior. dicti Domini Regis ad pacem in dicto Comitatu conservandam assignat. & assumpsit pro se ipso sub pœna 10 l. legalis monetæ Angliæ; & C. D. de L. in dict. Com. G. Yeoman, & E. F. de K. in dict. Com. G. Gentleman, tunc & ibidem in propriis personis suis similiter venerunt, & manu-ceperunt pro predicto A. B. videlicet uterque eorum separatim sub pœna quinque librarum de bonis & catallis, terris & tenementis suis ad opus dicti Domini Regis levand. sub conditione indorsata, viz.

Or thus: *Memorandum quod primo, &c.* A. B. *de &c.* C. D. *de &c.* & E. F. *de &c. in propriis personis suis venerunt coram me* W. S. *&c. & conjunctim, & divisim, cognoverunt se debere dict. Domino Regi quadraginta libras de bonis, &c. sub conditione indorsata.*

Every Condition of a Recognisance must have these things.

1. It may be in *English.*

2. It must have the first words, *The Condition of this Recognisance is such, that, if the within bounden,* A. B. *&c.*

3. It must shew what he is bound to do, if personally to appear at the next Quarter-Sessions, to be holden for the County of *G.* and in the mean time, be of good Behaviour towards our Soveraign Lord the King, and all his people.

4. The close, thus, [That then this Recognisance

to be void, or else to stand in force.]

5. All this may be upon the back of the Recognisance, or underneath it.

The Condition, &c. as before to appear in Sessions, and shall in the mean time, keep the Kings Majesties Peace, towards his Highness, and all his liege People; and especially towards *K. L. M.* in the County of *G.* Yeoman, that then, &c. To keep the Peace.

The Condition, &c. That if *C. D.* within bounden do and shall personally appear, at the next generall Gaol-delivery, to be holden in the County of *G.* before the Judges there, or at the Generall Sessions of the Peace, to be held for the said County at the next Sessions, &c. then & there, &c. For appearance.

A Recognisance entred into by A. B.

The Condition, &c. as before for appearance in Sessions, and shall then and there prefer a Bill of Indictment against *L. M. N. O. P. Q.* for a Felony which he hath laid to their charge (*viz.*) for stealing three Sheep, and shall then and there give evidence against the said *L. M. N. O. P. Q.* as well to indict, as to find them guilty of the Felony, that then, &c. To prefer a Bill of indictment. And to give evidence.

Or thus.

And do at the next generall Gaol-Delivery, to be holden for the said County, prefer, or cause to be preferred, and framed one Bill of Indictment against *L. M.* for a Felony charged before the said Justice, by the abovesaid *A. B.* with the felonious taking 20 Sheep of his, and shall then also give Evidence there, concerning the same, as well to the *Stat.* 4.

the Jurors that shall then enquire of the said Felony; as also, to them that shall pass upon the Tryal of the said *L. M.* that then, &c.

Or thus.

The Like. Then and there in due form of Law, to prosecute and give Evidence against *L. M.* concerning the felonious stealing of, &c.

To appear to answer a Felony. The Condition, &c. [as before for Appearance] then and there to make answer, concerning the stealing of one Cow from *A. B.* whereof he stands accused, and all other matters which on his Majesties behalf, shall be then and there objected against him, and abide such order therein, as the Court shall think fit, and not to depart the Court without license thereof.

For an Alehouse-keeper. The Condition, &c. That whereas the within bounden *E. D.* is admitted and allowed by the within named *A. B.* and *L. M.* two of his Majesties Justices of Peace of the County of *G.* to keep a common Alehouse, or Tipling-house, and to use common selling of Ale or Beer, within the now House of *C. D.* and not elsewhere, scituate in the Town of *Dale*, called the sign of the *Hart*: if therefore the said *C. D.* during such time as he shall keep such common Ale-house there, shall not suffer any unlawful play, at Tables, Dice, Cards, Tennis, Bowls, Coyts, Loggets, or other unlawful Games, to be used in his said House, or in his Garden, Orchard, or other ground or place; nor dress, or cause, or suffer to be dressed, any flesh to be eaten, upon any day forbidden by the Laws or Statutes of the Realm of *England*, nor wittingly, or willingly admit or receive into his said House,

House, or any part thereof, any person notoriously defamed of, or for their incontinency, or drunkenness; or that shall be beforehand notified to him the said *C. D.* by the Constable of *D.* aforesaid, for the time being, or his Deputy, to be an unmeet person to be received into a common Alehouse; nor keep, nor lodge any strange person there, above one day, and one night together, without notice there of given to the Constable of the place for the time being, And finally, if the said *C. D.* during all the time that he shall keep common selling of Ale or Beer, within the said House, shall, and will here keep, and maintain good order and rule; that then, *&c.*

That the said *A.B.* shall personally appear at the next General Sessions of the Peace, to be holden for the said County. And, in the mean time, that he shall keep the peace towards our said Lord the King, and all other the people of this Realm of *England*; and chiefly towards *L. M.* that then, *&c.* For the Peace.

That the said *A. B.* shall personally, *&c.* (as in the last.) And that in the mean time, he shall be of good Behaviour towards our Lord the King, and all *&c.* (as in the last.) For the Good Behaviour.

The Condition; That if the within named *C. D.* shall appear in person at the next Gaol-delivery, to be held for the said County, to answer *L. M.* for the suspicion of a Felony, *&c.* Or if it be about other matters, To answer to all those things, which shall be then and there objected against him, *&c.* that then *&c.* To bail a Felon.

Or thus, in *Latine.*

Ad comparendum ad proxim. Gaol, &c. Ad standum

recto de Felonia prædicta, ad respondendum dicto Domino Regi, &c.

If the Felon be in Prison, the Justice may send this Warrant: *You are forthwith to bring before me the body of* C. D. *now in your custody, to be bailed, as Law requireth.*

Warrant to bring a Prisoner.

And these Recognizances being made, are to be ingrossed in Parchment, and subscribed with the Justice's hand. But he that enters into it, need not put his Hand or Seal to it.

2. It must be certified to the next Sessions or Gaol-Delivery, where the party is to appear, 3 *H.* 7. 1. 2 & 3 *Ph.* and *M.* 10. 1 & 2 *Ph.* and *M.* 13.

The Justice is to enter it with himself, thus:

A. B. *De &c.* 20*l.* *ad comparendum ad proximam Sessionem Pacis, & Conservare pacem, versus* C. D.

T. H. *de &c.* 10*l.*
C. L. *de &c.* 10*l.*

Release and *Liberate.*

The Release of the Recognisance, is by the same Justice, or some other; and these words underwritten to the Recognizance.

Sect. 5. Release.

Ego præfatus W. S. *qui supra nominatum*, A. B. *ad prædictam securitatem pacis inveniendam, ex mea discretione compuli; eandem securitatem, de se bene gerendo, quantum in me est, ex mea discretione; primo die* Junii, Anno Domini. 16 *remisi & Relaxavi. In cujus rei Testimonium huic præsenti Relaxationi meæ sigillum meum apposui. Datum.*

Or thus:

Ego &c. qui supranominatum J. D. *ad prædictam*

dictam securitatem pacis inveniendam, &c. as in the last.

Or thus, by the party himself.

Md. quod 8. *die* Maii, Anno *&c. prefatus* G. H. *venit coram me* W. J. *& gravis remisit, & relaxavit, quantum in se erat, predictam securitatem pacis per ipsum versus supra nominatum* A. B. *petitam. In cujus rei, &c.*

Sed quere, Of what use these *Releases* will be, save only to make way at the Sessions, for the discharge of the parties from their Recognizance upon motion.

A. B. *To the Keeper of the Gaol in the Castle of* Gloucester.

FOrasmuch, as W. of &c. hath before Us found sufficient Mainprize, to appear before the Justices of the Gaol-delivery, at the next General Gaol-delivery, to be holden in the said County; there to answer the things that shall be objected against him touching the Felonious stealing of two sheep; for the suspicion whereof, he was committed to your Gaol. These are to require you, in case he be there detained in Prison, for this, and no other cause, that you forthwith deliver him, and let him go at large. Given, *&c.* *Liberate:*

Or thus.

A. B. *&c.* To the Keeper, *&c.* J. S. *being by me committed to your Custody, in your Gaol, till he be put in Sureties for the Peace* [*or Good Behaviour*] *as the Case is. These are &c.* [As it is in the last.] *Glouc.*

By this other may be made.

Observation.

If one Justice of his own head commit a man to Gaol, or to *Bridewell*, he may again deliver him, without shewing of any cause. Or, if it be for the Peace, or Good Behaviour, it is best for him, and the Gaoler also; that he signifie to the Keeper, that he hath taken Sureties for it, before he deliver him.

Of Bail, or Bailment, upon 3 Ed. 6. Chap. 15. 1 and 2 M. Chap 13. 3. H. 7. Chap. 3.

Mittimus.

First, No Justices may bail or deliver out of Prison one there upon suspicion of Treason, or the death of a man where it is confessed, or so expressed in the *Mittimus*, *Westmin.* 1. 15 *Ed.* 3.

Out of Sessions.

2. A man arrested, or imprisoned, and Bailable for Felony, is to be bailed, before it appear whether he be guilty, or not: For if a man be convicted by Verdict, or Confession, &c. he is not bailable. So if the *Mittimus* be for a Felony confessed. *Co. Instit.* 2 *Part* 178.

Two Justices,

3. Any one Justice may bail a man in Prison, that is bailable by Law. But if the Prisoner be in Prison, upon a suspition of Felony, there must be two or more Justices, and these present together, *Quorum unus*, to bail him. And they must take his Examination in Writing, and certifie it to the next Gaol-Delivery. See for this my *Survey of the Justices-Office*, Chap. 3. Sect. 2. 1 and 2 *Part. M.* 13.

Not bailable.

4. Such as are in hold for the death of a man, by the Command of the King, or his Justices, or for the Forest; Persons out-lawed, that have abjured

jured the Realm; Provers, and such as be taken in the manner; Prison-breakers; Thieves openly defamed and known; Appellees by Provers, [during the life of the Provers] House-burners, such as counterfeit the Kings's Seal, or Coyn; excommunicate persons, manifest Offenders and Traytors, are not to be bailed, *West.* 1. But for lesser Felonies, and where the suspition is but light, the Offenders are bailable, 3 *Ed.* 1. 15. 1 and 2 *Ph.* and *M.* 13. and none others may be bailed, but in open Sessions, where the Justices have a greater power in this, then they have out of Sessions. See *Chap.* 44. *Recognizance.*

5. The Justice must not bail one that is not bailable by Law; but it is his duty to bail one that is bailable by Law; the Sureties, and Sum for the Bail-Bond, are in his discretion. But in case of Felony, for appearance upon Bail, he must take good Bail, or he may be fined, *Coo. Inst.* 2. *Part*, 179. If the Justices, in this Case, shall think the Sureties insufficient, they may compel the party bayled, to put in better Security, or to commit him to Gaol, for lack of Bail.

6. It is said also if the Sureties doubt the Prisoner, that he will run away, and not appear, that they may take him, and carry him to the Justice, and desire to be discharged, and that the Justices must discharge them: and that the Principal is then to be committed, till he put in new Sureties. *New Bail*

About

Of a Superſedeas.

W. S. To the Sheriff, Bayliffs, Conſtables, and other the Officers and Miniſters of our Lord the King, for the keeping of the Peace within the County of *Gloceſter*; and every of them.

Sect. 7. FOr aſmuch, as A. B. of &c. hath perſonally come before me at Dale, in this County, and hath found ſufficient Sureties, that C. D. of &c. E. T. of &c. either of which hath undertaken for the ſaid A. B. under pain of ten pounds a piece; and he the ſaid A. B. hath undertaken for himſelf, under pain of 20 l. that he the ſaid A. B. ſhall well and truly keep the peace towards our Soveraign Lord the King, and all his People, eſpecially towards J. F. of &c. Yeoman: And alſo, that he ſhall perſonally appear before the Juſtices of Peace of the ſaid County, at the next General Seſſions of the Peace, to be held for the ſame County.

Therefore I command you, and every of you, that you utterly forbear, and ſurceaſe to arreſt, take, impriſon, or otherwiſe, by any means, for the ſaid cauſe, to moleſt the ſaid A. B. And if you have for the ſaid cauſe, and none other, taken and impriſoned him; that then you do cauſe him to be delivered, and ſet at liberty, without further delay. Given at *Dale* aforeſaid, under my Hand and Seal, &c.

There may be a *Superſedeas*, in caſe of Felony, where the Priſoner is bailed, thus: Becauſe *A. B.* of &c. hath come before us, &c. and put in ſufficient Bail to be before, &c. to anſwer the Felony wherewith he is charged. This

This may also be to stay proceedings of Arrest or Imprisonment against a man, upon the Good Behaviour, or upon a *Capias*, upon an Indictment for Trespass, or the like.

A President.

W. S. *Forasmuch, &c, I do therefore require you, that from compelling and imprisoning the said A. and his Wife, or either of them, and security for the Peace, towards our Lord the King, and all the People of this Common-Wealth, before you, or any of you again to find; you do supersede, or Cause to be superseded; And if &c. that then you do immediately turn out of such Prisons, in which they, or either of them, are detained deliver, or cause to be delivered. &c.*

CHAP. XLV.

Of Ryots, Routs and Forcible Entryes.

Out of Sessions.

NOne may enter into, or detain any Lands, or Church-Livings, with force, in pain of Fine and imprisonment. And if any do so, any one, or more Justices, (if it be in a County) or the chief Officer in a Corporation, may, upon complaint hereof, go to the place; and (if need be) take the Sheriff, with the *Posse Comitatus*, and view it; and, if it continue, remove the Force; and, as some say, fine the Offenders, and send them to Gaol, till the Fine be paid, or secured; and, upon his own view, record all this, and send it into the Kings-Bench, or

or Quarter-Sessions, at his choice. But if the Force be past, he is, within a moneth after complaint, to send to the Sheriff, to return a Jury, and charge them to enquire of it; and if they find it, send his Warrant to the Sheriff, to restore the party to his Possession again, unless the case be so, that he that is in Possession hath held it peaceably for 3 years, upon 5 *R.* 2. *Chap.* 7. 15 *R.* 2. *Chap.* 2. 8 *H.* 6. *Chap.* 9. 31 *Eliz. Chap.* 11. 21 *Jac. Chap.* 15.

2. And in case of a Ryot, Rout, or unlawful Assembly; upon complaint, any one, or more Justices, must, *sub pœna* 100 *l.* [if need be] with the Sheriff, and his *Posse Comitatus*, as in the Case of a Forcible Entry, go to the place and view it; if it continue, to quiet and suppress it, disarm the Ryotors, bind them with Sureties to the Good Behaviour; and, if they refuse, send them to Gaol, and record what he hath done.

Out of Sessions.

3. If the Force be past, he must take with him one more Justice at the least, and one of them must be of the *Quorum*, and send to the Sheriff for a Jury, keep a special Sessions, and enquire, as in case of a Forcible Entry; and if the Jury find it, fine the Ryotors, and send them to Gaol, till they pay their Fine, upon 17 *R.* 2. 8. 1 *H.* 5. *Chap.* 4. 23 *H* 4. *Chap.* 7. 19 *H.* 7. *Chap.* 13. 2 *H.* 5. *Chap.* 9. 8 *H.* 6. *Chap.* 14. But see for these things more, in my *Survey of the Justices Office*, *Chap.* 3. *Sect.* 18. and 46. and in the other Books of this Office.

4. The Justices may refuse to send away an Indictment for any Forcible Entry, Ryot, Assault & Battery, upon any *Habeas Corpus*, or the like Writ: unless the Writ be delivered to the Justices in their Sessions sitting; and unless the party indicted, will

ll enter into Bond there with good Sureties, to y the Profecutor his Coſts. But in caſe of an In-ictment for a Forcible Detainer, or other offence, s otherwiſe, upon 21 *Jac.* Chap. 8. One may not e indicted for entring forcibly into his own land. *Crook.* 1. 349.

Indictment for a Ryot.

Juratores pro Domino Rege præſentant ſuper Sacramentum ſuum, quod A. B. *de* C. *in Com. prædicto* Yeoman; C. D. *de eadem in Com. prædicto* Yeoman; & E. F. *de* W. *in Com. prædicto* Yeoman; *primo die* Maii, *Anno Regni dict. Domini Regis nunc &c. vi & armis apud parochiam prædictam in Com. prædicto riotoſe, routoſe, & illicite aſſemblaver. congregaver. coadunaver. & aggregaver. ad intentionem dict. Domini Regis perturband. Et illi ſic ut præfertur tunc & ibidem vi & armis riotoſe, routoſe et illicite aſſemblati, congregati, coadunat. & aggregati exiſtent. inter ſeipſos, in & ſuper quoddam Clauſum Paſtura ſoli ibidem conjunct. vocat. per omnem* De le homecloſe *cujuſdam* W. Yeoman, *tunc & ibidem vi & armis &c. riotoſe, routoſe & illicite fregerunt, & intraverunt, & herbam tunc & ibidem creſcent. in Clauſo prædicto exiſtent. prædict.* J. S. *ad valentiam quinque librarum ad tunc & ibidem vi & armis, &c. riotoſe, & routoſe, & illicite falcaver. ſuccideruni, ceperunt, & aſportaver. & alia enormia præfat.* I. H. *ad tunc & ibidem fecerunt, ad grave dampnum ipſius præfat.* W. *ad malum exemplum omnium aliorum in hujuſmodi caſu offendent. & contra pacem Domini Regis nunc, &c.*

For

For a Forcible Entry.

INquisitio indentata capt. apud A. in loco predict. primo die, &c. coram C. D. & E. F. Armigeris, Justiciariis dicti Domini Regis ad pacem in Com. predict. conservand. nec non ad diversa Felonia, transgressiones, & alia Malefacta in eodem Comitatu perpetrat. audiend. & terminand. assignatis, per Sacramentum. A. B. C. D. &c. proborum & legalium hominum Comitatus predict. Qui juravi & onerati dicunt super Sacramentum suum, quod A. B. nuper de C. in Comitatu predict. Yeoman, & C. D. &c. primo die Maii, &c. vi & armis illicite & manu forti ad parochiam de G. in Comitatu predicto in unum messuagium cum pertinen. ad tunc & ibidem in possessione T. W. tunc tenentis ejusdem, pro quodam termino Annorum, tunc & modo ventur. ad tunc & ibidem intraverunt & intrationem fecerunt & predict. T. W. ad tunc & ibidem vi & armis predictis, illicite & manu forti a possessione inde expulerunt & ejecerunt & predict. T. W. sic ut præfertur, vi & armis supradictam illicite & manu forti expulsum & ejectum a messuagio predict. cum pertinentiis, a predicto primo die Maii, Anno, &c. usque diem captionis hujus Inquisitionis vi & armis predict. ad parochiam de C. predict. in Com. predict. illicite & manu forti extratenuerunt, & adhuc extratenent, contra formam Statutorum in hujusmodi casu editorum & provisorum, & contra pacem dict. Domini Regis nunc, &c. See more Presidents in *Justice restored*, Pag. 112, 113, 114, 115, 116, 117. And my first Book of *Justice of Peace*, Chap. 14. throughout. And see my *Survey* of this Office, Chap. 18. And because there is some

some difficulty in the doing of this work, it will be the wisdom of every Justice, to call in for the help of some, or (at the least) one of his fellow Justices in it.

CHAP. XLVI.

Of Testimonial, or Certificate.

1. THe Clerk of the Crown, being sent to by the Justices of Peace, for the name of a person convict of any Felony, or other offence, and certified into the Kings Bench, shall forthwith send it to them, in pain of 40 *s.* upon 34 *H.* 8. chap. 14.

2. One Justice may take and certifie in *Chancery*, the submission and oath of a Jesuite or Priest, given within three days of his landing in *England*, upon 27 *Eliz.* 2.

3. One Justice may certifie deceiveable Cloth, upon 21 *Jac.* 18,

4. So one Justice may give a Testimonial to a Labourer, to go into another Country to work in Harvest-time, upon 5 *Eliz.* 4.

5. So one Justice may serve, with the Constable or Minister, to give a Testimonial of the whipping of a Rogue, and appoint him whither to go, upon 39 *Eliz.* 4.

6. So one is enough to certifie the Examinations of a *Dyer*, and his Servants, about *Logwood*.

7. So to give a Testimonial, of the landing of a Souldier or Mariner, and to appoint him whither to go, upon 39 *Eliz.* 17.

8. So to joyn with a Customer, to certifie the unlading and selling of Corn or Cattel, carried from

from one part to another, upon 5 & 6 *Ed.* 6. 14.

9. And one Justice may certifie Recognizances and Examinations taken by himself alone. But if taken by him, & any other, both must certifie them.

10. There must be two Justices, to give a Testimonial to a Servant of his departing out of his Masters Service with his good will, upon 5 *Eliz.* 4.

11. And there must be two, *quorum unus*, to certifie into the Sessions, that an Alehouse-keeper doth sell Ale without License, upon 5 and 6 *Ed.* 6. chap. 25.

22. And there must be three to certifie under their Hands and Seals the worth of Parents of Children, to be taken as Apprentices, to Clothiers or Merchants, upon 5 *Eliz.* 4.

13. The Clerk of the Crown, Assize, and Peace, are to certifie into the Kings Bench, the tenour of every Indictment, Outlawry, or Conviction, and Clerk Attaint. had before either of them respectively, for any Felony, or other offence, within 40 days of the Attainder, Conviction, or Outlawry, (if it be Term-time) otherwise, within 20 days of the first day of the next Term. And the Clerk of the Crown being sent to by the Justices of Peace, for the name of any person so convict and certified, are without delay, to send them a Certificate thereof, in pain of 40 *l.* upon 34 *H.* 8. 14. 18 *Eliz.* 7.

14. The Justices at Sessions are to certifie a Presentment, when it comes in before them, of one that denies the Kings Supremacy, within 40 days, into the Kings Bench, in pain of 100 *l.* upon 5 *El.* 1. See Chap. 14.

15 They also are to make some other Certificates, upon Popish Priests and Recusants; Which see in Chap. 14.

CHAP.

Of Treſpaſſes in Orchards, Woods, &c.

ANy one Juſtice of Peace where the offence is committed, or Offender apprehended, (but he that is intereſſed in the matter) may upon oath of one ſufficient Witneſs, or the parties confeſſion; for the firſt offence, appoint ſuch a recompence to be given to the party grieved, as the Juſtice ſhall think fit, by any mean, or lewd perſon, that ſhall cut, or carry away Corn, or Hay; rob Orchards or Gardens; break or cut any Hedge, Pale, Rail or Fence; dig, pull up, or take away any Fruit-Trees, cut or ſpoil any Woods, Underwoods, Poles or Trees ſtanding (not being Felony) and their procurors and receivers. And if he judge him in his diſcretion unable to give ſatisfaction; or he do not make ſatisfaction according to the order, then he may make the Conſtable, or other Officer of the places where the offence is done, or he is taken, to whip him, or cauſe him to be whipped. And if the Officer do not whip him, the Juſtice may commit the Officer to priſon without bail, til he cauſe him to be whip't; but this is to be in Seſſions; and for a ſecond offence, the like puniſhment is to be inflicted on the Robber, &c. and (if he be a common offender herein) the Juſtice may bind him to the good Behaviour, and to appear at Seſſions, or ſend him to the Houſe of Correction. The Juſtices have ſome power about Watches and Wards. And therefore it is by 5 *H.* 4. 3. Provided, That in every Commiſſion of the Peace hereafter to be made, this is to be inſerted, That the Iuſtices have power in their Seſſions, to enquire of Watches, and to puniſh them who ſhall be found guilty, according to the Tenor of the Statute of *Winchester*. And it hath been reſolved by the Iudges, 1633. that Warding is of great uſe, and

it is left to the discretion of the *Constables*, or direction of the Iustices, to vary therein, according to occasion. And the course is, that one Iustice may cause Watches to be set from Sun to Sun, from *Ascension* to *Michaelmas*. But it is fitter to be done by more Iustices at their meeting; and one may punish neglect, haply, by putting a man to give Sureties for the good Behaviour. But it is best to have the party indicted, and so fined for the Offence. 43 *Eliz.* 7. 7 *Car.* 1. *Dalt.* I. 8. chap. 48.

CHAP. XLVIII.

Of Wine, upon the Statute of Glouceſter, 28 *H.* 8. 14. 7 *Ed.* 6. 5. *and other Statutes.*

THere are many Proviſions made about this by theſe and other *Statutes*. As (1) That Wines ſhall be ſold at a reaſonable price.

In the Seſſions. (2) That tryal be made of them twice a year.

(3) That the Lord Chancellour and others may ſet down the prices of all ſorts of Wines, and make Proclamation thereof, and that none ſhall take above thoſe prices. Whereof the Iuſtices may hear and determine any offence againſt this *Statute* of 28 *H.* 8. 14. And if any refuſe to ſell their Wine at thoſe Rates, the Mayor, Recorder, and two ancient Aldermen (in *London*;) in other places, the Bayliff, Bayliffs, Aldermen, or other Officers (whereof the Chief Officer is to be one) may enter into their Houſes, and ſell it at that Rate ſo ſet down by the Lord Chancellour, and the reſt. It is alſo by 7 *H.* 6. 5. provided,

1. That

1. That none ſell Wine by Retail, in any place but in Burroughs, Port-Towns, or Market-Towns, or in *Graveſend*, *Sittingborn*, *Teuxford*, or *Bagſhot*, in pain of 10 l. a day for every day he ſells.

2. That none may ſell Wine by Retail, in any City, Borough, or Corporation, but by licenſe of the moſt part of the Common Council, Aldermen, Burgeſſes, or Communalty there, under their Common Seal, nor in any City, Burrough, Port-Town, or Market-Town not corporate, without Licenſe of the Juſtices of the Peace in Seſſions, under their Seal, under pain of 5 l. for every day they ſo ſell, that is, none may ſell by Retail in his own houſe, by Licenſe of Juſtices, nor at all may he ſell or utter to others of other houſes, in ſuch a place, without Licenſe of the Juſtices. And theſe Officers and Juſtices, may change ſuch Licenſes at their pleaſure. See the Statute 12 Car. 2. ca. 25. In the Seſſions.

3. Theſe Officers and Juſtices, may not Licenſe above two in a place. And in the places named in the Statute, they are to Licenſe no more then the number limited by the Statute, in pain of 5 l. a piece. But the Juſtices have nothing to do, but upon 28 *H.* 8. 14. and 7 *Ed.* 6. 5. And thereupon, nothing out of, but all within their Seſſions, ſave only that Juſtices may enter into a Merchants Houſe, which denies to ſell Wine at the price aſſeſſed, and ſell the Wine, by 24 *H.* 8. 6. 37 *H.* 8. 23. 3 *Ed.* 6. 17.

CHAP.

CHAP. XLIX.

Of Weights and Meaſures, upon *Magna Charta* 25. *Aſſiſa panis & cereviſiæ. Stat. of Pillory and Tumbrel de piſtoribus*, and 14 *Ed.* 3. 12. 25 *Ed.* 3. 9, 10. 2 *H.* 6. 11. 8 *H.* 6. 5. 9 *H.* 6. 8. 7 *H.* 7. 4. 16 and 17 *Car.* 19. and divers other Statutes.

THere are in theſe Statutes very many Proviſions about this matter.

Sect. 1. 1. That there is to be but one Meaſure and Weight for all things in the Nation, and this according to the Kings Standard.

2. The Aſſize of Bread is ſet, and according to this it is to go.

3. If Bakers do not obſerve it, they are to be ſeverely puniſhed, by the Pillory and otherwiſe.

4. The Aſſize of Bread and Beer, is to be according to the prices of Corn.

5. The Tun of Wine is to be 252. Gallons, Engliſh meaſure, the Pipe 126 Gallons, Engliſh meaſure; the Barrel of Herrings or Eeles, 30 Gallons; the Butt of Salmon 84 Gallons, and ſo of leſs meaſures after the ſame Rate, upon 2 *H.* 6. 11.

6. Every City, Borough and Town, is to have a common Ballance, with common Weights, ſealed according to the Standard of the Exchequer, at the Town-charge, in the keeping of the Head-Officer there, in pain of 10. l. to the City, 5 l. to a Borough, and 40 s. to a Town, upon 8 *H.* 6. 5. 8. 11 *H.* 6. 8.

7. There ſhall be Meaſures and Weights of Braſs,

Brass, sent to Cities and Boroughs, after this, all the Measures and Weights of the Countrey are to be regulated. And the Mayor is to have, and set a special mark or Seal, upon all the Weights and Measures he alloweth, and to take what is set down in the Statute for it. If he refuse, or delay to seal them, he forfeits 40 s. upon 7 *H.* 7. 4.

8. Mayors and chief Officers, must once a year, view all the Measures and Weights within their limits, and break or burn them, which they find defective, and inflict upon the offenders, for the first offence 6 s. 8 d. for the second offence 13 s. 4 d. and for the the third offence 20. s. upon 11 *H.* 7. 4. In a special Sessions, or in the general Sessions.

9. Two Iustices *quorum unus*, may hear and determine the offences of Mayors and Head-Officers, and others herein, and set Fines and Amerciaments on the offenders, and to take as forfeit the defective Weights to burn, upon 11 *H.* 7. 4.

10. The Iustices in their Sessions, have power to hear and determine the offences of 8 *H.* 6. 5. 8. and 7 *H.* 7. 4. and 2 *H.* 6. 11. But he can do nothing upon any of them, without the Sessions. *Stat.* 2.

11. By 16, 17 *Car.* 1. 19. 17. 'Tis provided,

1. That there be but one Weight and Measure, (except for Rent-Corn, and Water-measure) and that according to the Standard; and Corn shall be striked. And he that hath, or useth any other, forfeit 5 s. being convict of it by one Witness before a Iustice of Peace, or Head Officer; to be levied by the Church-wardens, or Overseers of the Poor, where the offence is, to the use of the Poor, by distress and sale of goods. And for lack of distress, to be imprisoned without bayl, till he pay it.

2. That the Clerk of the Market, and all that Clerk of the Market.

have by Office to do with it to over-look it, are to do their Offices; and that if any of them seal any Weight or Measure, not according to the Standard, he shall forfeit 3 l. to the use of the poor.

3. If any of them take more for Fee, then what is allowed, or otherwise misdemean himself in his Office, he shall forfeit for the first offence 5 l. for the second 10 l. for the third offence 20 l. to the use of the poor.

4. If any Officer be sued upon this Statute, he may plead the general Issue; and if it go for him, shall recover treble Costs. And now upon this Statute, all that is to be done out of Sessions, is, That any Justice, upon proof, by the Oath of one Witness, that a man hath bought or sold by, or doth keep any other weight or measure, whereby any thing is bought or sold then according to the Standard, may send his Warrant to the Church-wardens, and Overseers of the poor of the place where, &c. or one of them to give notice thereof, who are thereupon by their Offices, to levie by distress and sale of goods, 1 s. rendring, &c. And if there be no distress, the words of the Law are, That any Justices may send the offender to the Gaol, till he pay the forfeiture. By which, it seems, any two Justices are empowred to do it.

CHAP.

CHAP. L.

Of the Justices Office in divers other things.

SECT. I.

Of Accompts.

Out of Sessions. *Sect.* 1.

ANy two Justices may call all the old Treasurers formerly made, that have not accounted, their Executors or Administrators to Account, and force them to pay to the present Treasurers, the money in their hands, upon 14 *Car.* 2.

Any one Justice of the City and County of *Warwick*, and two Justices of the County of *Norfolk*, may joyn with the Mayor of *Norwich*, to take the Account of the Wardens there, for the regulating of the making of Stuffs in *Norwich* and *Norfolk*, by 14 *Car.* 2.

SECT. II.

Of Armour and armed Men.

Sect. 2.

AS to this it is to be known. 1. That none are to come with force and Arms before the Kings Justices, or other Ministers, nor go or ride armed in affray of the Peace, upon pain to forfeit their Armour, and suffer imprisonment at the Kings pleasure. And Justices of Peace have power to put this Act in execution. And if not, the Justices of Assize may enquire of their default herein.

In the Sessions.

Out of Sessions.

2. That any Justice may disarm any man that is brought before him, on suspicion of crime.

3. That if any Justice of Peace, shall see any man go or ride armed, in an unusual way, (with secret Coats of Mail, Daggs, Pistols, and the like) by day or by night, to the terrour of the people; he may (if he think fit) and ought (if he see it necessary) to cause them to be disarmed, and bound to the Peace. And yet Souldiers and Officers, in the doing of Justice, may go armed, and are not to be interrupted.

SECT. III.

Of Archery, Guns, Cross-bows, Playes, and Games, upon 33 H. 8. chap. 9.

Out of Sessions.

1. ANy one Justice may enquire into the Execution of the Statute of 33 *H.* 8. chap. 9. about Bows and Arrows, and acquaint the Sessions with what he findeth, and one Justice upon examination, which (as it seems) must be of the party himself, may commit to Gaol him that is found to shoot in, carry, keep, use, or have in his house, any Gun, Cross-Bow, Dag, Pistol, or Stone-Bow, against 33 *Hen.* 8. chap. 6. And where he findes it, he must estreat the 10 l. into the Exchequer, against such as shall be convict before him of this offence.

In the Sessions.

2. Any Justice of a County, or Head-Officer of a Corporation, may go into any place, where he suspects Carding, Dycing, or unlawful Games to be used, and imprison such as keep or use them, until they give Sureties not to use them any more.

3. All

3. All the offences against this Statute about unlawful Games, Archery, shooting in Guns, are to be heard and determined in the Sessions; and the Justices out of Sessions, have nothing to do therein, otherwise than as aforesaid. 2 & 3 *Ed.* 6. chap. 14. 2 & 3. *Phil.* and *Mar.* chap. 9. And know, that the Acts or Ordinances about Stage-Players, May-Poles and Cock-matches of 11 *Febr.* 1647. and 6 of *April* 1644. 31 *March* 1654. 17 of *Septemb.* 1656. are not of any use to us at this day. But the Statute of 3 *Jac.* chap. 21. forbidding the abuse of the name of either of the Persons of the Trinity in such Playes, is still in force. But the Justices have nothing to do upon this Statute, either within, or without their Sessions, 1 *Par.* 2. *Phil.* & *Mar.* 13.

SECT. IV.

Of Butter and Cheese.

NOne but Inholders and Victuallers in their House, may buy Butter or Cheese to sell again, but by retail in open Shop, Fair, or Market, and so not above a Weigh of Cheese, or Barrel of Butter at one time, in pain to forfeit double the value. But in *London*, *Westminster*, and *Southwark*, the Retailers of Cheese, that have served 7 years at the Trade, and that utter not above 4 Weigh of Cheese, and 4. Barrels of Butter at one time, are excepted and allowed so to buy and sell. And this shall not be called Forestalling, &c. upon 3 *Ed.* 6. 21. 21 *Jac.* 21. Justices of the Peace in their Sessions, may restrain the Retailing of Butter and

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Cheese. and during that time, it will be unlawful, upon 21 *Jac.* 22.

The Justices of the Peace, are to hear and determine all the offences in and about the weight, or false packing of Butter upon this Act. But we find nothing for them to do herein out of Sessions. See the Statute 14 *Car.* 2. *cap.* 26.

For Cattel.

He that keeps above 120 Sheep, or 20 Beasts, upon several Pasture-grounds, apart for Milk-kine, and not Commonable, shall always keep for every 60 Sheep, or 10 Beasts, a Milch Cow; and for every 120 Sheep, or 20 Beasts, rear up one Calf, in pain of 20 s. forfeit for every Cow not so kept, and every Calf not so reared. But this is not to be extended to such as feed Sheep, or Beasts for their own Provision.

In the Sessions. The Justices in their Sessions, may hear and determine this offence. See Forestalling, &c.

Of Wax, upon 11 *H.* 6. chap. 12.

No Wax-Chandler may put to sale any Candles, or Ware made of Wax, at a dearer rate than to have only 4 d. in every pound of Wares, above the common price of plain Wax, in pain to forfeit the Wares sold, and value thereof, and to be fined also. And this, Justices may hear and determine, but it must be in the Sessions. And for mingling Wax, upon 23 *Eliz.* chap. 8. the Justices have not at all to do within, or without their Sessions.

SECT.

SECT. V.

Of Money.

1. BLack money is not currant here, 9 *Ed.* 3. chap. 1. False or counterfeit, and clipt money is not to be received here. Foreign Coyn is not to be allowed here. 17 *R.* 2. 1. 3 *H.* 5. 1. No *English* Gold can be forced to be received in payment, but by the Kings Weight. 9 *H.* 5. 11.

2. Gally half-pence are not currant here.

3. The money called Blanks is forbidden 2 *H.* 6. 9. But all other money, either of our own, or of a foreign Countries Coyn; that by the Kings Proclamation is allowed for good, is to be accounted good, and to be paid and received for good money.

4. All Coyns of Gold and Silver, now currant here, shall so continue, for the value they were coyned for, albeit they be cracked; so as they be not clipt, or otherwise diminished, reasonable wearing being excepted, by 19 *H* 7. ch. 5.

5. If any refuse any lawful Coyn in payment, he is to be compelled by the Officer of the place to take it, and imprisoned, or otherwise punished, as such Officer shall think fit. And if a Sheriff, or other Officer refuse it, he may be compelled to take it by a Justice of Peace, and otherwise punished at the Justices discretion, upon 19 *H.* 7. 5. But *Quare*, how? It may be, he may bind them to the good Behaviour, for a wilful contempt herein. It is safe to do it in Sessions: we do not find any power given to Iustices, against them that import into the Realm bad money, or export Gold, Silver, or other money

In, or out of Sessions.

Gold, Silver, or other money, or any other way offend about money, upon the Statute of Groat-money, *incerti temporis.* 9 *Ed.* 3. 1. 18 *Edw.* 3. Stat. 26. 25 *Ed.* 3. Stat. 5. 13. 38 *Ed.* 3. Stat. 1. 1. 5 *R.* 2. 2. 4 *Jac.* 1. 17 *R.* 2. 1. 2 *H.* 4. 5. 11 *H.* 4. 5, 13 *H.* 4. 6. 1 *Ed.* 6. 12. 5 *Eliz.* 11. 2 *H.* 6. 6, 9. 19 *H.* 7. 5. unless it be what is given to them, by 3 *H.* 5. 7. by which they have given to them to heat and determine all offences concerning false money.

SECT. VI.

Of the Plague, by 31 Eliz.

THE Mayor, or other Head-Officer, and Justices of Peace in any Corporation, or any two of them where the Plague is (out of Universities, Cathedral Churches and Colledges) may do these following things.

Appoint Officers. 1. They may appoint Officers to search, watch, examine, keep, and bury the sick, and dead.

Make a Rate. 2. They may Rate the Inhabitants, and send their Warrant under their Hands and Seals, to any person to levie it upon the Goods of such as refuse to pay. Or if there be no distress, upon refusal, to commit the person to prison, till the Rate be paid.

3. In places Corporate, where no Justices are, and in the County, any two Justices may make a Rate, and charge the places about the infected place for five miles, and cause it to be levied by distress as aforesaid.

4. All these Rates are to be sent to, and to be ordered by the Sessions.

5. If

5. If the Corporation be not able to relieve their sick, upon a Certificate thereof from the Officers of the Town, to the Justices of the County thereunto adjoining, or two of them; they may also set a Rate upon all the places thereabouts, within 5 miles of the Corporation that is infected, and cause it to be levied as before.

6. If any infected person dwelling in any House, be commanded by a Justice, or other Officer, to keep in his House, and he go forth, the Watchmen may resist him, and keep him in. Out of Sessions.

7. If such an infected person, having the Plague-sore upon him, go amongst Company, this is Felony, and he shall be punisht as a Felon. Felon.

8. If he have no sore upon him, he shall be punished as a Vagabond, by 39 *Eliz.* 4. And all this by 1 *Jac.* Cap. 31.

SECT. VII.

Of Pewter and Brass.

ALL that the Justices have to do, in or out of the Sessions, about this, is to appoint two experienced persons, to make search thereof, by 19 *H.* 7. 6. 4 *H.* 8. 7. Out of Sessions.

Of Physitians.

Justices of Peace, Mayors, Sheriffs, Bailiffs and Constables, must assist the President or Commonalty of the Faculty of Physick in London, *grounded upon the* 14 H. 8. chap. 5. *and all persons authorized by the Colledge to search for, and apprehend and commit* Out of the Sessions.

mit offenders against that Statute, and in the execution of that Statute.

Of Propheſies.

In the Seſſions. None may ſet forth any Phantaſtical or falſe Propheſie, with an intent to raiſe ſedition, in pain for the firſt offence of 10l. and a years Impriſonment; and for the ſecond offence of all his Goods, and impriſonment during life. And this offence, the Juſtices may hear and determine in their Seſſions, upon 5 Eliz. 2. 15.

Of Hue and Cry.

Out of Seſſions. Every Juſtice is to promote Hue and Cry after a Felon. And If any fault be in any Officer in the purſuit thereof, the Juſtice may perhaps bind him to the good Behaviour (for his neglect) and to appear at the next Seſſions, by 27 Eliz. 13.

Of Night-walkers.

In or out of Seſſions. As to Night-walkers that are dangerous Perſons, who have little to live upon, ſleep by day, and walk abroad by night, that are ſuſpect to live by diſhoneſt meanes, any one Juſtice may put them to give Surety for their good Behaviour, and to appear at Seſſions, upon Information upon Oath given in to him, otherwiſe ſend him to Goal, if he refuſe. And know this, that Watchmen may arreſt Night-walkers, albeit they be not ſuſpitions, and keep them till morning; and if then they find no cauſe of ſuſpition, they may let them go. And ſo it ſeems, may any other man, Latches. Rep. 137. if they find cauſe to ſuſpect

watchmens power.

assist, bring them to a Justice to put in Surety for it. And for common Night-walking, a man may be indicted. Part, Idem. Bendloes. 199.

SECT. VIII.

Of the Excise, and Customs of the King.

1. EVery Justice, being required, is to assist the Lord Treasurer, or any of the Barons of the Exchequer to joyn with the persons commanded by their Warrant in the day-time, to search for, and seize Goods concealed, to deceive the King of his Custom, upon 12 *Car.* 2.

2. All the Forfeitures, & offences about the Excise given to the King in lieu of his Wardship, &c. in all places but in *London*, may be heard and determined by two of the Justices near the place where the offence and Forfeiture is made and committed, if they do it within 14 dayes after complaint made to them. Otherwise, it is to be done by the Sub-Commissioners of the place for the Excise. Within, or without the Sessions.

3. And if the party be grieved by the Judgment of the Sub-commissioners, he may appeal to the Justices of the Peace, at their next Sessions, who must there determine it. See Stat. of 12 *Car.* 2. for the taking away of the Court of Wards. But we have not to do with the Acts of Excise of 14 *August* 1649. and 17 *September.* 1656. In the Sessions.

4. The Justices are to be ayding to the Officers and others appointed to manage the Kings Customs, in the doing of their Offices, and in the execution of the Statutes for that purpose, by 13 *Car.* 2. Out of Sessions.

Of

Of the Inrollment of a Deed.

Out of Sessions. Any one Justice may joyn with the Clerk of the Peace in the Inrollment of a Deed of Bargain and Sale of Land, acknowledged before them within 6 moneths after the Date of the Deed, by 27 H. 8. chap. 6.

SECT. IX.

Of Escapes.

In the Sessions. THE negligent and wilful Escapes of Murtherers and Felons, are also to be punished by Justices in their Sessions. 3 H. 7. chap. 1, 1 R. 3. 3.

For Information, and an Informer, upon 18 Eliz. chap. 5.

1. The Informer must begin, and follow his Suit in person, or by his attorney in Court, and shall have no Deputy, in pain of 10 l. and the Pillory.

2. A Note of the exhibiting his Information shall be taken, and then it shall be accounted to be of Record, and no Process to go forth till then.

3. The Clerk that makes out the Process, must indorse his name, and the Statute upon which the Information is grounded, in pain of 40 s.

4. No Informer may compound with any Defendant before answer, nor then, but by consent of the Court, in pain of 10 l. and the Pillory.

5. The Justices in their Sessions, have power to hear

ear and determine these offences.

6. Information for such things, as where in the Offices have power, shall be before them, and not in the Court at *Westminster*. 21 *Jac.* 4. *Coo.* 2. part of his *Instit.* 173. 174. 175.

Of Counterfeit Letters.

If any falsly get any money, or other thing, by colour of any false Token, or Counterfeit Letter, under pain of any corporal punishment, (but Death) the Judges before whom he shall be convict by Witnesses, or by confession, shall think fit.

And Justices of Peace may hear and punish such an offender in their Sessions. But the same power is given to Corporations, therefore they are not to meddle within Corporations, upon 33 *H.* 8. 1. See *Justr.* 1 part, 149, 150.

Of Crows.

It is said, that one Justice may cause to be levied of the Goods and Cattels of him that refuseth to pay for the taking of old Crows and Rooks upon his Land that hath 5 l. *per annum* Land, in his occupation, after the rate of 2 d. a dozen But there is no way of conviction of the refuser. And therefore it seems, nothing is to be done for the Justices therein out of Sessions.

Of Cottages.

None may erect, or convert a Building to be a Cottage for Habitation, unless he lay 4 Acres of Free-hold-Land of Inheritance so near to it, that they may be conveniently occupied together on pain In the Sessions.

pain of 10 l. and 40 s. a moneth for the continuance of it. But Cottages in Cities, Burroughs, or Market-Towns, or built for Labourers in *Mines*, or Quarries within a Mile of them, or for Seamen within a mile of the Sea, or a Navigable River, or for a Keeper, Warrener, Shepheard, or Heardsman, or for an impotent person; and Cottages, which by order of Justices of Assize, or of the Peace, in the open Assize, or Sessions; shall be decreed to continue for Habitation for so long time, as it shall be so ordered, are not to be against this Statute.

No owner, or occupier of such an unlawful Cottage, shall place, or willingly suffer, any more Families then one, to co-habite therein, on pain, to forfeit to the Lord of the Leet 10 s. a moneth, yet a poor person may by consent, be setled as an Inmate for a time, and this will be no offence. Justices in their Sessions, may hear and determine any of these offences, by 31 *Eliz.* chap. 1. See *Bulstr. Co.* 51. 52.

Of a Libeller, or slanderer.

In or out of Sessions.

If any man shall raise, or promote any Libel by word or deed against another (especially, if it be a Magistrate) or charge a man with such a Crime, as for which he may have an Action; he may be Indicted, and fined for this in the Sessions before the Justices there by way of Indictment. Or perhaps any Justice may bind him to the good Behaviour for it, if the wrong and provocation thereby be great.

SECT. X.

SECT. X.

Of Mault and Maulsters, upon 2 Ed. 6. 10. 39 Eliz. 16. 1 Jac. 25. 11 Jac. 28. 27 Eliz. 14.

1. THE Justices in their Sessions, at their discretion may restrain the superfluous number of Maulsters, and of the buyers of Barley, to be converted into Mault, by 39 Eliz. 16. *In the Sessions*

2. There must be two Justices to convict an offender upon his own Confession, or the Testimony of two Witnesses of his breach of a Sessions order, made for the restraint of Maulsters, and to commit to Gaol for three dayes, and after, till he enter into Recognizance of 40 l. to obey the Order, upon 39 Eliz. 16. But any one Justice alone, may take this Recognisance. *Out of the Sessions.*

3. None may imploy lesse time to make and dry Mault to be sold out of *June*, *July*, and *August*, than three weeks; nor in those Moneths, lesse then 17 dayes, nor put to sale any Mault mingled of good and bad, in pain to forfeit for every Quarter so put to sale 20 s.

4. None may put any Mault to sale, before (by the treading, rubbing, and fanning of it) there be taken out of every Quarter, half a Peck, in pain, to forfeit 20 d. for every Quarter otherwise done, by 2 *Ed.* 6. 10.

5. All (but the punishment of the breach of a Sessions Order) that is to be done upon these Statutes, is to be done in the publick Sessions. *In the Sessions.*

6. Bailiffs and Constables of Towns, where faulty Mault is made, or mingled as aforesaid, may search for it; and finding it, with the advice of a Justice of *Out of Sessions.*

of Peace, may make sale thereof, at their discretion, by 2 *Ed.* 6. 10.

7. Justices in their Counties, are not to meddle in Corporations, nor may Maulsters meddle with the execution of this Statute.

8. Justices of the Peace have nothing at all to do, upon 17 *R.* 2. 4. 3 *Jac.* 11.

Of Mosse-Troopers, upon 4 & 5 M. 3. 14 Car. 2.

In the Sessions. The Justices of Peace, in the County of *Northumberland*, and other Counties, may rate and order those Counties, for the securing thereof against the *Mosse-Troopers*, their Thefts and Robberies, raise a force to secure their Counties. See 14 *Car.* 2. And the Statutes of 4 and 7 *Jac.* revived.

SECT. XI.

Of Robbery; upon 27 Eliz. 13. *and other Statutes.*

In the Sessions. THere are many Statutes about this, that have some reference to the Office of the Justice of Peace. As 1. That all persons are to be ready upon *Hue and Crye*, and the Sheriffs Summons to pursue, and arrest Felons.

2. And if any Officer within, or without a Franchise, be negligent herein, he is to be punished by Fine and Imprisonment. *Westm.* 1. 3 *Ed.* 1.

3. That the whole Hundred where Robberies are done, shall be answerable for the Robberies there committed; and if they be done in the division

diviſion of two Hundreds, both Hundreds together, with their Franchiſes, ſhall anſwer them. Statute of *Winchester*, chap. 1. 13 *Ed.* 1. chap. 1, 2, 4, 5, 6. *Articuli ſuper Chartas* 17. 28 *Edw.* 1. 11. 7. *R.* 1, 6. But whatſoever is to be done upon any of theſe Statutes, is to be done in the Seſſions. This onely is to be done out of Seſſions, That where damages are recovered by the party robbed, againſt one, or ſome few of the Inhabitants of a Hundred, in a Suit againſt a Hundred, upon a Robber eſcaped, and default found in the proſecution of a Felon in the ſame Hundred, or in another Hundred, where the one half of the money is recoverable by the party robbed, in the name of the Clerk of the Peace of the County, by 13 *Ed.* 2. 2. and 28 *Ed.* 3. 11. And for one equal diſtribution in both theſe Caſes, any two Juſtices *Quorum unus*, living in, or near the place, may ſet the Rate upon the Towns of the Hundreds. And after the Conſtables of the Towns and Pariſhes have diſtributed and ſet it, and have levied it by diſtreſs and ſale of goods, the which they are by their Offices, without Warrant from any Juſtice, to do. And this money ſo levied they are to deliver to one of the ſame Juſtices, who is to ſee it paid to him, for whoſe uſe it was raiſed.

Out of Seſſions.

Conſtables.

Of Incontinency.

If a man keep a Bawdy-houſe, or haunt ſuch a Houſe, or be commonly ſuſpected for a lewd man this way; he may be for this indicted before the Juſtices in Seſſions, and if found guilty; he may be fined and impriſoned till he pay it. Or he may be bound to the good Behaviour for this offence. *Stiles Rep.* 323.

In, or out of Seſſions.

What the Justice hath to do about a Bastard child; See chap. 18.

That Ordinance of the tenth of *May*, 1650. against Adultery, Fornication, and Incest, we have nothing to do with it.

SECT. XII.

Of Wood, upon 35 *H.*8.17. 13 *Eliz.*25. 1 *Eliz.*15. 13 *Eliz.*25. 23 *Eliz.*5. 27 *Eliz.*19. 15 *Car.*2. Cap.2, Stat.3.

BY these Statutes there are Provisions.

1. For Standards of certain Trees to be left where wood is felled.

2. For the preservation of Woods felled, for a time after it is felled.

Out of Sessions. 3. Against the Conversion of Wood-ground into Pasture or Tillage. And for many other things about Woods. And amongst others, that where a Wood or Coppice is to be felled, wherein others have Common, the Lord or Owner of the Soil is not to fell it, before he and the Commoners have agreed upon a fourth part thereof to be inclosed to the Lords use. And this if they cannot agree upon, any two Justices appointed by the Sessions, may call twelve of the Commoners and Inhabitants, and the Lord, and with their consent, set forth a fourth part. And this is all that the Justices have to do within, or without the Sessions about this, upon any of these Statutes.

Of

Of the Commissioners of Sewers, by 13 Eliz. 9.

The Justices of the Peace, two of them being of the *Quorum*, have in some Cases, a power with the Commissioners of Sewers, by 13 *Eliz.* 9. Out of Sessions.

If one refuse to perform the Judgement of the Ordinary, about payment of *Tythes*, two Justices, *quorum unus*, upon the request of the Ecclesiastical Judge, may cause the same person to be attached, and to be committed to prison without Bail, till he enter into Recognisance with a Surety, before some Justice of Peace, to abide the Decree of the Ecclesiastical Judge, by 27 *H.* 8. 20. *Tythes.* Out of Sessions.

Of Tile-making, upon 17 Ed. 4. Chap. 4.

The Justices may appoint Searchers of Tile, to overlook the making of it, and to present to them the defaults in it, and none may sell it, till it be searched, in pain to forfeit it. The Searcher is to forfeit 10 s. for every default, and he is to have 1 d. for 1000, of the Tile-maker, for his Search, upon this Statute. And the Justices of Peace at their discretion, have power to hear and determine all the offences about Tyle-making, (*viz.*) if they be made of good Earth, and of Earth well prepared, and of due assize in length, breadth, and thickness; and whether the Searchers do their Office or not, and they are to assess the Fines limited by the Statute. And this, it seems, may be at a privy Sessions by Indictment; but the safest way is to do it at the general Sessions. 17 *Ed.* 4. 4. In their privie Sessions. In the Sessions.

SECT. XIII.

Of Trade and Manufacture.

Yorkshire for Cloth.

1. IN *Yorkshire*, the Iustices with others, are to make a Corporation, for the regulating of the Trade of broad Woollen-cloth, within the West-Riding of the County of *York*; and so from time to time, to manage the same with the rest of the Corporation, upon 14 *Car.* 2.

Corporation Out of Sessions.

Silk-thrower.

2. The Iustices in their Sessions, may hear and determine the offence of one that shall use the Trade of a Silk-Thrower, that hath not been seven years Apprentice to it, for the 40 s. a moneth forfeited by him thereby, upon 14 *Car.* 2. So the offence of one, that having served years of that Trade living in *London*, or *Westminster*, or the several Suburbs thereof, or of one of them, or within 20 miles compass of either of them, that are not admitted into the Society or Corporation of Silk-Throwers in *London* or *Westminster*, for the 40 s. a month forfeiture for the same offence, upon 14 *Car.* 2.

In the Sessions.

Silk-thrower. Out of Sessions.

3. If a Winder or Doubler of Silk, shall purloyn, imbezil, pawn, sell, or detain any of the Silk delivered to him by the Silk-Thrower to wind or double, any one Iustice of Peace may examine it. And finding it by the Oath of one Witness against the Iourneyman or Winder, he may determine it, and order to the party wronged, what recompence he thinks fit. And if the party be not able, or shall not within 14 days after, pay it according to the order of the Iustice, he shall for the first offence be whipt, or put in the Stocks in the place where he offended, or in some Market-Town of the

Out of Sessions.

the County near to the place, as the Iuſtice ſhall think fit. And for the ſecond offence the like, or ſuch other puniſhment as the Iuſtice in his diſcretion ſhall think fit, upon 14 *Car.* 2.

Of Watermen.

At the firſt Court of Aldermen in *London*, next after the firſt of *March*; out of the VVatermen between *Graveſend* and *Windſor*, there are to be choſen eight for Overſeers, which ſhall have power to keep Order amongſt the reſt. And they may commit for ſome offences; and the Iuſtices of the Counties adjoyning to the River of *Thames*, upon complaint of any two of the Overſeers, or of any VVatermans Maſter; may hear and determine any offences committed againſt 2 and 3 *Phil.* and *Mar.* chap. 16. and to enlarge a VVaterman unjuſtly committed againſt that Act, and to puniſh the Overſeers for injuſtice. In the Seſſions.

The Iuſtices in the Counties of *Glouceſter* and *Somerſet*, in their Seſſions, are to bind their Keepers of Ferries over *Severn*, in Recogniſances with good Sureties, that they ſhall not tranſport any Paſſenger or Cattel out of *England* into *Wales*, or the Forreſt of *Dean*, or from either of theſe places into *England*, before Sun-riſing, or after Sun-ſetting, unleſs ſuch as they know and will anſwer for, by 26 *H.* 8. chap. 9. In the Seſſions.

CHAP. LI.

As to the Justice of Peace's Warrant, those things are to be known.

Sect. 1. 1. THat where a Statute doth appoint a thing to be done in the nature of a punishment for an offence, it hath been held by some, That upon any complaint to one Justice of this offence done; that this Justice may send for the offender, he may grant his *Warrant*, to bring the offender before him and another Justice, or to find Sureties for his appearance at the next Sessions, to answer the offence at Sessions. Or if he see cause, bind him to the good Behaviour, and to appear at the next Sessions. But it is conceived, that this Warrant and proceeding, is altogether illegal. And that no Justice may do the one or the other, but that the party is to be indicted, and then to be proceeded against by the ordinary process of the Court. And yet in case where some special and extraordinary power is given to a Justice by an Act of Parliament, to bind over, &c. there perhaps it may lawfully be done. *Dalt. Just.* p. 29.

2. That a Justice may not send his Warrant to arrest a man, because he hath broken the peace. But he may send his Warrant to arrest a man, for fear he will break the Peace, to prevent it, 5 *H.* 7. 6. *Bro. Abridg. Fann. Impr.* 42.

To whom to be directed.

3. That the Warrant may be directed to any Officer, as the Sheriff, his Bayliffs, Constables, Tything-men, or to others that are no Officers, thus,

To the Sheriff of the County of G. or to the Bayliff

of itinerant of the County of G. *or to the Bayliff of the Hundred of* R. *or to the Constable of the Hundred of* R. *in the County of* G. *or to the Constable of the Town or Village of* Dale, *or to the Tything-man of* Dale, *as the Officer there is called, if it can be known.*

Otherwise, the best way is, to direct it to all the Constables and Tything-men of *Dale*, in the County of *G.* and every of them. Or it may be directed to all these Officers together, To the Sheriff, and to all Bayliffs, High-Constables of Hundreds, and Constables, and Tythingmen of Towns and Parishes within the County of *G.* and every of them, joyntly and severally. Or it may be directed to their Officers, and to others that are no Officers together: or to them that are no Officers, alone thus: To *J. S.* and *W. S.* both of *Dale*, in the County of *G.* and to either of them. But this must be understood of Warrants of the Peace, good Behaviour, and such like VVarrants, wherein the Justice of Peace is left at liberty to direct his warrant to whom he will; for if that Law direct to whom, as divers Acts of Parliament do, some appointing him to direct his VVarrants to the Constables, some to the Constables and Church-wardens, some to the Church-wardens, some to the Constables, or Church-warden, some to the Church-wardens and Overseers of the Poor: In these Cases, he must take care to pursue the direction of the Statute punctually: for it is dangerous to vary from it never so little; Therefore the Title set down in the Presidents for Warrants, must be followed and not altered. And when the Title of direction is to more than one, it is good to add (and to every of them) and to say in the Body of the Warrants, *These are to*

Authorize, and require you, and every of you. But the best way is, to direct it to the known and common Officer, which is the High-Constable of the Hundred, or Constable of the Town, in all Cases where it is left to the Justice of the Peace, to direct it to whom he please.

4. That it is not amiss to say, the place wherein the Officer dwells, to whom the Warrant is directed, is within the County. To the Constable of *Dale*, within the County of *Gl.* And so of other places named within the Warrant, to say they are within the County.

5. That it is not safe for a Justice to make a VVarrant to take a man for Felony, unless he be indicted for it; but then if it be to the Court of Sessions, it must be by the ordinary process of the Court. And yet if he send such a VVarrant to an Officer, and he execute it, the Officer is excused. 14 *H.* 8. 16. *Bro. Abridg. Faux Impr.* 8. 33.

To apprehend a Felon.

6. That it is not safe for a Justice to send a VVarrant upon his own suspition to arrest a man, but that he is to arrest him himself, as another man is to do. But the Justice may send his Warrant to the Constable of a Town, to see the Peace kept in the apprehending and taking, and bringing of a Felon before him. And then the party that doth know of, or suspect the Felon, and that hath given in the Information to the Justice, is to arrest him. And then it is his arrest. 14 *Hen.* 8. 16. *Bro. Faux. Impr.* 8. 16. See Chap. 3. Sect. 4. *Numb.* 22.

Sect. 2. 7. That it is not safe for a Justice to send for a man to examine him, except it be in some special Case of Treason, &c. and not to set down the cause in the VVarrant, as for Felony, the Peace, &c.

But

But in all Cases, he is in his *Mittimus* to set down the Cause, for the Constable or other Officer, in a suit against him for the Imprisonment is to set down the Cause; and therefore it is safe to express the Cause. And therefore we do not approve the VVarrant to attach or apprehend a man for misdemeanors only, or to answer to such matters as shall be objected against him. *Co. 2. part. Inst. 591.* Mittimus must express the Cause.

8. That it is not amiss, if the VVarrant recite a Conviction of an offence, to let it express where the offence was done, thus: *J. S.* being Convict before me, that he was drunk at *Dale* in this County. Because in many Cases, the forfeiture is given to the poor of the place where the offence is done. Place of the offence done

9. That it is held, that albeit a Sheriff upon the Kings VVrit or an Officer may demand the Traytor, or Felon in anothers house, and if he deliver him not, break open the house. Sheriff, or other officers power.

And albeit another man may do so upon a *Hue* and *Cry*, to apprehend a Felon; yet that it is not safe for one, or more Justices, upon a bare surmise of Felony, to give a VVarrant to break any mans house to search for a Felon, or for stolen goods. *Co. Inst. 2. part. 177.* See Chap. 1. Sect. 4. *Numb. 22.* Breaking open a house.

10. That it is good also to express the time, when the offence was committed, thus: *J. S.* being duly convicted before me, that he was drunk at *Dale*, in this County, the first day of *May* last, or within 3 moneths last past, or since the first of *May* last past, that it may appear, the offence was done since the general Pardon, and in some Cases, this is, if not necessary, yet very convenient, when Time of the offence done

when the offence is by the Law to be punished within a certain time, or not at all, there it is good to say, that the offence was done within that time.

The place of making the Warrant.

11. That it is good also to express the place of making the Warrant, and must be some place within the County, thus: *Dated at* Dale; *Given under my Hand and Seal at* Dale, *in the same County.* But if it say it was dated at one place, and be dated at another, yet the Warrant is good, and shall be taken to be dated where the Warrant expresseth.

Before what Justice to be brought.

12. That the Warrant (being a Warrant of Arrest) may be to require the Officer to bring the offender before the Justice that makes the Warrant, or before him, or some other Justice of the County, and either of these forms is good, but the first is best. *Bustr. 3. part. 77, 78.*

Stat. 3. Cause to be expressed in a Warrant.

13. That in every Warrant for the Peace, or good Behaviour, where Sureties are to be found or required, the Warrant ought to contain the special cause or matter, that the party Arrested may be provided with Sureties. But if it be for some great Crime, the cause may be concealed.

14. That in every Warrant to command an Officer to carry a man to Gaol, it is not amiss to insert a clause at the end of the Warrant, to command the Gaoler to receive him, to this purpose. *That he him convey to the Common Gaol of this County, and him deliver to the Gaoler, or his Deputy there, who are hereby required, him to receive and detain in their Custody as a Prisoner, till he shall be thence delivered by due course of Law.*

15. That albeit a Justice may not send his Warrant to another, to arrest a man upon his own, or upon another mans suspicion of a Felony (as is said before;)

(...) yet any Justice, upon the Report or notice of a Felony or Treason done, may send out his Warrant to the Sheriff and Constables of all places within the County for *Hue* and *Cry* after, and to search for the Traytor and Felon. And of whatsoever upon they find in their search, one they have cause to suspect they may thereupon of their own heads, apprehend and bring him to a Justice to be examined. But it is useful for a Justice of Peace, upon an Information given in to him, by a man that is robbed, upon his Oath, and that he doth suspect such a one, to send his Warrant to Officers to apprehend this person, and to bring him to a Justice to be examined.

16. If the Felony be by the taking away of goods, it seems, that any Justice may send his Warrant to search in suspitious places for the goods stolen; and if they find the goods, to secure them, to the end, that the owner may have them. And if the Officer suspect the party in whose hands the goods are, he may bring him to a Justice to be examined: This Warrant then must be warily made and executed. But the Officer may (no doubt) in this Case, upon his own suspition, arrest the party and bring him to a Justice to be examined.

17. That there is little difference between a Warrant of Commitment, and a *Mittimus*, for both are to do one thing, and differing only a little in form, it will be easie therefore to make the one by the other.

18. That a Justice therefore must take great care how he doth make a Warrant to arrest, imprison, or send to Gaol, or *Bridewel*, any man, but in a clear Case; as for Felony, the Peace, or good Behaviour, or the like.

19. That

19. That where a Statute gives power to a Justice of Peace, to compel men to do any thing, in order hereunto, he may send his Warrant, to require them to come before him, and in case of their refusal, to proceed in the Law. So to tender the Oath of Supremacy. See Chap. 8. Sect. 4.

Upon a Statute-Law.

20. That if the Justice of Peace ground his Warrant upon any Statute-Law, he must be the more careful, and be sure he pursue exactly the direction of the Statute therein. As where the Statute directeth the Warrant to be made to the Constable, or to the Constable and Church-wardens, or to the Church-wardens and Overseers, or to be made under his Hand and Seal; that it be made accordingly.

21. That the Justices of Peace may send their Warrants for any thing that doth relate to a Special Sessions, either to compel appearance, or attendance there, for execution of any thing there done, under their own Hands, if they please, or may let it be done by the Clerk of the Peace, as the business of the Quarter-Sessions is done.

22. That if the Justice send his Warrant to arrest and imprison a man, the best way is, to direct it to as many as he may, Constable, Tything-man, &c. or to leave it indefinitely thus. To require you, that *J. S.* be apprehended and brought before me, and Complaint, or Information being given or made to me, that *J. S.* &c. These are to Command and Authorize you, that *J. S.* be brought before me, &c. *Bulstr.* 3. 78, 79.

Sect. 4.

23. That it is a good close of every Warrant sent to an Officer, to require him to give an account how he hath executed it, after this wise. And that you be then there with this precept, to give an

account of your execution of it. Or thus, And that you give me an account within 14 days next following, of your execution of my Warrant.

24. That where a Statute gives the Justices power to commit to Prison, *Bridewel*, or the like, in case of lack of distress, or the like, there the best way for the Justice seems to be to do it in one Warrant thus, That you levie of the Goods of J. S. &c. And in case you can find no distress, or (for lack of distress) that then you carry him to Gaol, &c. for three dayes, or that you whip him, &c. as the words of the Statute are, rather than to take upon him to know the lack of distress, &c. and thereupon, to send his second Warrant absolutely to do it. But if in such a case, the Justice shall send his VVarrant to send a person to Gaol or *Bridewel*, and not to distrain, and in case of lack of distress to carry him to Gaol; this Warrant seems to be unlawful, and dangerous. And it will be necessary (or at least convenient) to send one VVarrant to the Constable to carry him to Gaol, and another VVarrant, or *Mittimus* also to the Gaoler, to receive him, and not to do both by one Warrant. Caution to Justices.

25. And that for the manner and form of the Justices Warrant in other particulars, it will be the safest way for the Justice to do it in writing, with his Hand to it, and also his Seal; for in some Cases the Seal is necessary, that the Warrant be perfect when it is sealed, and not with blanks to be filled up afterwards by others, and that it be clear, and not have in it any ambiguous words, as that you cause to come before me, &c. for this leaves it doubtful, whether the Officer is to summon him to come before him, or to bring him prisoner before him, and so in like Cases. And for the penning

of

of it, he may do it either in the Kings name, and begin it thus: *Charles by the grace of God*, &c. or in his own name alone. As *A. B.* Esquire, one of the Justices, &c. or without this, thus: *Complaint being made to me, that, &c. These are to require you, &c. And with, or without a Teste*; but it is not amiss to say, *Witness my Hand and Seal, &c.* But a Day, Moneth, and Year of the Lord, may not be omitted. It is not necessary to use words (*in the name of the Kings Majesty*) to require, &c. But it may be sufficient, *These are to require you, &c.* And yet the Warrant doth carry the more Majesty in it; as for the word (*Greeting*) it may be omitted. So these words, The Justices of our Lord the King Assigned, &c. and it is enough to say, *Justices of Peace of* (*or within*) *the County of* G.

26. That in all this, it concerns the Justice to be very circumspect; for albeit, no Action will lie against the Justices, for any thing they do command in their Court, yet an Action may lie against a Justice, for any thing he doth command out of Sessions, if he do any thing against, or besides the Law. *Coo.* 10. 77. *Godb. Rep.* 246. Yet see 9 *Ed.* 4. 7. *Cro.* 1. last publisht, 829.

27. That where a Statute is penned thus. That the Constables or Church-wardens, by Warrant from a Justice of Peace, shall be enabled to do an Act; in this Case, we conceive the Justice may Justifie the making of that Warrant.

28. That it is usual to grant Warrants against offenders, upon penal Laws, to bind them over to the Sessions, before they be indicted of the offence, in Cases where there is no Special Power or direction by the Statute so to do. But we dare not advise men so to do, being unsatisfied of the law-

lawfulness thereof. But agree it to be clear and safe, that after the offender is indicted of the offence found by presentment of the Grand Jury, to be bound over to the next Quarter-Sessions to answer it, and also to put in Sureties for his good Behaviour in the mean time, if the offence, for which he is indicted, will warrant it. As if he be indicted for selling Ale, contrary to the Justices Order, or the like: so also in Cases where a Law doth give a special Command and power to any Justice of Peace to bind over an offender to the Sessions, as the Statute of 5 *Eliz.* 4. touching Masters and Apprentices; the Law of 25 *Eliz.* 10. touching Hawking in eared or codded Corn, 1 *Ed.* 6. chap. 1. 25 *Eliz.* 10. and some others do. In these Cases, they may bind them over before Indictment. But then it is best, first to send a Warrant of Summons to call in the party offender before the Justice, to answer the matter; and then if he appear, and he see no cause to forbear to bind him over, to do it. And if he do not appear, then he may send for him, and bind him over, and bind him to the good behaviour also, for his contempt.

Some Presidents of Warrants for Justices of Peace.

To the Constable, or Tything-men of Dale.

A. B. One of the Justices of the Peace for the County of *Glouc.* To the Constable of *Dale*, within this County. For as much as *A. B.* of your Town, (or of *Sale* in this County) hath come before me, and taken his Oath, that *C. D.* of your Town (or of *Sale*) *Glouc. ss.*

Sale) hath assaulted and beaten him the said *A. B.* and threatned him in such sort, that he is afraid he will beat, wound, or kill him, burn his House, or do him some bodily hurt; and thereupon the said *A. B.* hath prayed security of the Peace, to be granted against the said *C. D.* These are therefore in his Majesties name, to require and command you, that immediately upon sight thereof, you attach the Body of the said *C. D.* and him bring before me, or some other Justice of Peace of this County, to find sufficient Sureties, as well for his personal Appearance at the next Sessions of the Peace to be holden for this County, as also for the keeping of the Peace towards his said Majesty, and all his liege People, and specially towards the said *A. B.* And if he shall refuse so to do, that then you him carry to the Common Gaol of this County, there to remain till he shall so do. And hereof fail you not at your peril. Given under my Hand and Seal, this first day of *May, Anno Dom. 1669.*

For the good Behaviour.

A. B. &c. To &c. as in the last.] For as much, &c. as it appeareth to me, that *C. D.* is a person of ill Behaviour, (or is not of good Fame, nor of honest Conversation, but an evil doer, Rioter, Barretor, or perturber of the Peace of our Soveraign Lord the King, as we are given to understand by Information of sundry credible persons, These are (as in the last) That you attach the Body of, &c. And that ye have, &c. to answer to such matters, as on his Majesties behalf shall be objected against him. And also that you require him to bring with him Sureties for the good-abearing, until the next Sessions.

Upon

Upon a Supplicavit.

A. B. &c. To the Sheriff of the same County, And to all and singular Constables, Bayliffs of Liberties, and other Ministers, as well within Liberties as without, and every of them. Know ye, that I have received the Commandment of our Soveraign Lord the King, in these words. Or thus, to recite the effect of it. Know ye, that I have received the Commandment of our Soveraign Lord the King, to compel *C. D.* of the said County, Yeoman, to find sufficient Sureties for his Majesties Peace, by him to be kept towards *L. M.* of the said Town, Taylor. And therefore I Command you, and every of you, on the behalf of our said Soveraign Lord the King, that immediately upon sight hereof, you cause the said *C. D.* to come before me, or some other Justice of the Peace of this County, to find sufficient Sureties for the Peace to be kept towards our Soveraign Lord the King. And if the said *L. M.* shall refuse thus to do, That then you him convey, *&c.* untill he shall do the same. So that he may be before the Justices of our said Soveraign Lord the King, at the next generall Sessions, to be held for the said County, to answer to our said Soveraign Lord the King, for his contempt. And that you certifie your doing in the said Premisses, to the Justices at the said Sessions, bringing with you this Precept. *Given*, &c. Cl. ucc. ff.

A Supersedeas of a Warrant for the Peace.

A. B. &c. To all Constables and Tything-men within the County of *Glouc.* For as much as *C. D.* Glouc. ff.

of &c. hath come before me at S. and hath found sufficient Surety, that is to say, L. M. and N. O. Yeomen, either of which hath undertaken for the said C. D. & the said C. D. hath undertaken for himself, under pain of 40 l. that the said C. D. shall well and truly keep the Peace towards our said Soveraign Lord the King, and all his Liege People, especially towards P. Q. of &c. Yeoman, and that he shall personally appear before the Justices of the Peace of our said Soveraign Lord the King, at the next generall Sessions, to be held for the said County. Therefore on the behalf of our said Soveraign Lord the King, I Command you, and every of you, that ye utterly forbear, and surcease to arrest, take, or imprison, or otherwise by any meanes for the said occasion, to molest the said C. D. And if you have for the said occasion, and none other, taken, or imprisoned him, that then you cause him to be delivered, and set at liberty without further delay. Given, &c.

The Return of it is to be on the back side of the *Supplicavit* thus. *Executio istius brevis patet in quadam Schedula huic Brevi annexa.*

To the Constables and Church-wardens of Dale.

About Ale-house-keepers, To levy 20 s. for selling without Licence.

W. H. &c. To the Constables and Church-wardens of Dale. *It appearing before us, or before me* (if but one) That the persons undernamed, have commonly sold Ale without Licence, whereby they have forfeited twenty shillings a piece to the use of the poor of your Parish, according to the Statute in that Case provided. These are therefore in his Majesties

name

me, to require and Command you, to demand of the said parties, the said twenty shillings a piece. And if any of them shall refuse or neglect to pay the same to you, That then you levy the same summe, of the party so neglecting, or refusing, by distress and sale of his Goods within three dayes, according to the said Statute. And if no distress can be taken or found, that then you bring him or them before us, or one of us, to be dealt withall, according to the same Statute. Given under our Hands and Seals, &c.

M. N. of *Dale* aboveſaid.
O. P. of *Dale* aboveſaid.
Q. R. of *Dale* aBoveſaid.

To bring the Felon and Witneſſes before a Juſtice.

About Felony, Glouc. 8.

A. B. &c. To all Conſtables and Tything-men and to the Conſtables of Dale. Whereas I am informed, that C. D. hath had a Child lately born alive of her Body, and is ſuſpected to have murdered or made away the ſaid Child, ſince the birth thereof; (or that C. D. hath had certain Goods feloniouſly taken from him, if that be the Caſe.) Theſe are therefore, &c. that you apprehend and bring the ſaid C. D. before me, or ſome other Juſtice of Peace of this County, (or if it be the laſt caſe) that if you find any perſon, you ſhall have cauſe to ſuſpect of the ſaid Felony) to anſwer the Premiſſes, and that you do by all meanes labour to find out the truth of the Premiſſes; and if you ſhall find any perſons that you think may help to diſcover the truth thereof, that you require them to come before me, or

some other Justice of Peace of this County, to give Information on the behalf of his Majesty, touching the Premisses &c. Given. &c.

Examination.

The Form of an Examination may be this; of Witnesses; The Examination of *C. D.* taken upon Oath before me *A. B.* one of his Majesties Justices of Peace, in the County of G. the first day, &c. And so set down at large, all the materiall Circumstances that he shall declare to prove the offence, & the offender guilty of it. Of the party thus. The Examination of *C. D.* &c. taken before me *A. B.* &c. such a day: the said Examinate being duly examined, saith, *&c.* And so set down every particular answer that the Prisoner shall make to the question that shall be demanded of him. All this being put in writing, the Justice doth make his *Mittimus* to send the party accused to Goal, if there be cause.

To give Evidence against a Felon.

Gibus. ff. *A. B.* Esq; *&c.* To the *&c.* These are to require and command you, That you forthwith cause to come before me, or some, or one other of his Majesties Justices of the Peace within this County, the persons hereunder named, to the end, that they & every of them, may make their personal Appearance at the next General Goal-Delivery, or Quarter-Sessions [if it be there] to be holden for the County, then and there to testifie their, and every of their knowledges, concerning certain felonious acts, committed and done by *A. B.* now a Prisoner in the Castle of *G.* And hereof, *&c.*

To

To search for stolen Goods.

A. B. &c To the Constable and Tythingmen of *Dale*, and every of them. Complaint being made to me, that *C. D.* hath certain Goods feloniously taken from him, and that he hath in his suspicion, divers lewd and evill disposed persons within your Parish. These are therefore *&c.* That you immediately make diligent search in all suspected Houses and places within your Parish, as you and the said *C. D.* shall think fit. And if in the said search, you find any of the said Goods, that you secure the same to be disposed according to the Law. And if you find any cause to suspect any person of the said Felony, that then you do your office therein, to bring the same persons you shall so suspect before me, or some other of his Majesties Justices of the Peace, within the same County, to answer the Premisses. And hereof *&c.* Glouc. ff.

For a Hue and Cry after Felons.

To all Constables, *&c.* Whereas Complaint hath been made to me A.B. one of the Justices, *&c.* by *C. D.* of *&c.* Husbandman, that upon *Monday* last he was robbed of 6 pair of sheets, taken out of his House, and that he hath cause to suspect one *E. F.* a lewd Rogue (describe his person, age & apparel.) These are in his Majesties name, to require you and every of you, to make search within your several Precincts for the said *E. F.* and also to make Hue and Cry after him, from Town to Town, and from County to County; and that as well by Horsemen, as by Footemen, And if you shall find him the said *E. F.* that Glouc. ff.

E. F. That then you carry him before some one of his Majesties Justices of the Peace, within the County where he shall be taken, by him to be dealt withall according to Law, Given &c.

To take Vagabonds.

Clone. 1. A. B. Armiger un. Justiciar. Dom. Regis, ad pacem in Com. predict. conservand, nec non ad diversa felonia, transgr. et alia malefacta in Com. predict. audiend. et terminand. assign. Constabular. ville de W. in Com. predict. et eorum cuilibet, Salutem. Ex parte Domini Regis vobis & cuilibet vestrum mando, quod Attachiatis, seu unus vestrum attachiat, C. D. vagabond, non servien, nec in servitio alicujus retent. (ut dicitur) & effectus deservire faciat J. G. Secundum formam Statuti de servientis edict. Et si hoc facere recusaverit. Tunc tum ad proxim. Gaol. dicti Domini Regis Com. predict. duc. facias, Ita quod eum habeatis seu unus vestrum habeat, coram me et sociis meis Justic. ad proximam Sessionem ipsius dict. Domini Regis ad pacem in Com. predict. tenend. una cum mandat. hoc. Dat, &c.

To fetch a Servant.

Clone. 2. A. B. Esquire, &c. To the Constables of &c. and either of them, and to all other Constables and Headboroughs in the said County, and every of them Greeting. Where by a Statute made in the first year of the Reign of the late Queen Elizabeth, it is provided, that if any servant shall unlawfully depart from his Master, Mistress, or Dame, from any one Shire or County, into another, it should be lawful for any one Justice of Peace of the same County, from whence

whence any such Servant shall so depart, to send his Precept or Precepts into the other County, into the which any such Servant shall so come. And forasmuch as C. D. a Servant to E. F. of &c. Taylor, is gone from his Master, without any Testimonial, or his lawful License, into the County of E. These are therefore in his Majesties name to require you, that forthwith upon sight hereof, you go with the bearer hereof, and as speedily as you may apprehend the said C. D. and him bring before me, or some other Justice of Peace, within the same County of Glouc. to be ordered according to the Law in that Case provided. Given &c.

Ad B. &c. Whereas I have received Informa- tion under the Hands of some of the Justices of the Peace, of the Parts of *Kent*, that one *C. D.* the retained Servant of *E. A.* of your Town of *Dale*, for time yet to come, is put away from her said Service unduly, and contrary to the Law of this Realm. these are therfore to authorize and require you, to convey her the said *C. D.* to her said Master *E. A.* And if he shall not her receive as his Servant, or make any refusal, or dilatory excuses, that then you cause the said *E. A.* to come presently before me, or some other of my fellow Justices of Peace of this County of *G.* to answer as well such his refusal, &c. as also why he should not pay to our Soveraign Lord the King, the Sum of 5 l. for such his unlawful putting away of his said Servant, which if he shall refuse to do, that then by vertue hereof, you do him attach and convey to the Goal of the said County, untill he shall willingly perform the same. *Given at Dale, &c.* Glouc. 8

For

For relief of a Servant out of Service.

Glouc. ff.

A. B. &c. To the Constables *&c.*, Whereas Complaint is made to me by *C. D.* that he being lawfully retained in the Service of *T. H.* of your Town, Husband-man, at *Michaelmas* was twelve moneth, and being put away from his Service at *Michaelmas* last, hath been at the Statute-Sessions, and cannot provide himself of a Service, being destitute of meanes to relieve himself. These are therefore in his Majesties name, to require you, that presently upon the receipt hereof, you do receive the said *C. D.* into your Town, and see him set on work, and provided for, according to the Statute in that Case made and provided. And hereof you are not to fail, *&c.*

To distrain one for drunkenness.

Glouc. ff.

A. B. *Esquire*, &c. *To the Constables of* Dale, *or the Church-wardens of* Dale.) *Forasmuch as* C. D. *was on* Wednesday *last, being the second of this instant moneth of* July, *drunk, as appeared by mine own view, by his staggering and reeling to and fro. These are therefore in his Majesties name, to require and command you forthwith, to levy by distress and sale of Goods of the said* C. D. *the Sum of* 5 s. *forfeited, by the same offence by the Statute, and render to him the overplus. And if you can find no distress, whereof to levy the same, and that he shall refuse, or neglect, forthwith upon demand, to pay the same, that then you set him in the Stocks there to remain for six hours, according to the Law. And the same money, if you can receive, to pay over*

This Warrant is to be directed to the Constables or Church-wardens, by stat. of 4 Jac. 5. and 1 Jac. 9.

to

one of the Overseers of the Poor of your Parish, to the use of the poor. And hereof not to fail, &c. Given, *&c.*

W. S. Esquire, *&c.* To the Constables of *Dale*, in the County of *G.* and every of them; Or it may be directed to the Church-wardens of *Dale*, in the County of *G.* Forasmuch as it hath been duly proved before me, that the persons here under-named, inhabitants within your Parish of *D.* upon the first day of *May* last, were and did continue drinking and tipling in the house of *G. W.* an Inne-keeper, or an Ale-house-keeper within your said Parish, and that the said *G. W.* did then suffer it, contrary to the Statutes in that Case provided: By which the said persons under-named, have forfeit each of them 3 s. 4 d. a piece, and the said Inn-keeper hath forfeit 10 s. to the use of the Poor of your Parish. You are therefore hereby required to take notice thereof, and according to the duty of your place forthwith to levy of the goods of the said *G. W.* to the use of the poor of your Parish, 10 s. by distress, appraisement, and sale thereof, according to the Statute, rendring to him the overplus. And likewise to levy by distress and sale of the goods of every of the said persons undernamed, 3 s. 4 d. a piece, in case the same persons shall refuse or neglect to pay the same 3 s. 4 d. to the Church-wardens of the Parish within one week after the demand thereof, rendring back the overplus. And in case the said last offenders, or any of them, be unable to pay the same forfeiture, that then you put the same persons so unable in the Stocks, there to remain the space of 4. hours. And you are further to give notice to the said *G. W.* that

Glouc. 6.

Against the Ale-house-keeper, for suffering tipling, and the tipler for tipling, grounded upon 1 Jac. 9.

that he is by this offence diſabled to keep any common Ale-houſe, by the ſpace of 3 years next following. And hereof, &c. *A.B. C.D. E.F. G. H.*

This offence of Tipling, muſt be puniſhed within ſix moneths, and thereof the Warrant ſhall do well to expreſs the offence to have been done within ſix moneths.

Glouc. ff. *W. S. &c.* To &c. (as in the laſt) It being duly proved before me, that *J. S.* of &c. an Inn-keeper, or Victualler, or Ale-houſe-keeper, or Taverner, or one that doth ſell Wine in his Houſe, did upon the firſt day of *May* laſt, in his houſe there, being an Ale-houſe, or Inne, or Tavern, (as the caſe is) permit and ſuffer divers unknown perſons to be and remain tipling, contrary to the Act of Parliament in that caſe provided, by which he hath forfeited 10 s &c. (as in the laſt) And hereof, &c.

Another.

Either of them will ſerve.

Grounded upon 1. Car. 4. & 1 Jac. 9.

Glouc. ff. *W. S. &c.* To the Conſtables of *D.* in the County of *G.* and every of them, (or it may be to the Church-wardens.) Whereas *J. S.* an Ale-houſe-keeper, or an Inne-keeper of your Pariſh of *Dale*, hath been lawfully convicted before me, for ſelling Ale and Beer by unlawful meaſures, and leſs then a quart of the beſt for a peny, within 3 moneths now laſt paſt, at *D.* aforeſaid, contrary to the Statute in that caſe provided, whereby he hath forfeit 20 s. to the uſe of the poor of your Pariſh. You are therefore hereby required to take notice thereof, & according to the duty of your place, forthwith to levy of the goods of the ſaid *J. S.* by diſtreſs, appriſement and ſale thereof, according to the Statute in that caſe provided, to the uſe of the poor, the ſame Sum of 20 s. And you are thereby required, to

For not keeping of the Aſſiſe.

Grounded upon 1 Jac. 4

give

give notice to the ſaid *J. S.* that he is diſabled for [illegible] years next coming, to keep any ſuch common Ale-houſe again.

To renew their Recogniſances.

A. B. and *C. D.* Juſtices *&c.* to the High Conſtables of the Hundred of *W.* Theſe are in his Majeſties name, to require you to ſend your Precepts to every petit Conſtable within your Hundred, requiring them by vertue hereof, to warn all Ale-houſe-keepers, and Victuallers within your ſaid Hundred, and ſuch as have ſold Ale with, or without Licenſe, within a year laſt paſt, to be and appear before us at *L.* in this County, at the Sign of the Red Lion there, upon *Thurſday* the tenth day of *May* next, by eight of the Clock in the morning, and then thither to bring with them their Licenſes: and further, that every of them do bring with them a Certif: of their fitneſs & honeſt behaviour, in keeping of their Ale-houſes and Victualling-houſes, under the hands of 4. at the leaſt, of the moſt ſubſtantial, honeſt, and diſcreet Inhabitants of the Pariſhes where they ſo keep or dwell, that we may take ſuch courſe therein, as Law and Juſtice ſhall require. And hereof, *&c.* Glouc. C.

To diſcharge Ale-houſe-keepers.

Or thus, To the High Conſtable of, *&c.* Theſe are *&c.* to require you, that you make out your Precepts to all the petit Conſtables within your Hundred, requiring them by vertue hereof, they diſcharge all ſuch as ſhall keep a Tipling-houſe, or ſhall commonly ſell Ale or Beer within their li-

mits

mits, other then such as are lawfully Licensed thereunto, whose names are hereunder written, and do forbid them in our names, that they from henceforth keep any common-tipling-house, or use commonly to sell Ale or Beer, contrary to the Statutes in that case provided. And if you shall know of any offending, or doing contrary to the said Statutes, That then you warn the said persons to come before me, and others of his Majesties Justices at *Dale*, in this County, upon *Monday* the 5th *&c.* that they may be dealt with according to Law. And hereof, *&c.*

A Warrant for levying of 20 s. *a piece, of certain Unlicensed* Ale-house-keepers, *and further to proceed according to Law.*

Suff. ss. FOrasmuch as the Parties here-under named of your Town, do stand lawfully convicted before us, for *Ale-house-keepers* without License, and have thereby forfeited the sum of 20 s. apiece, to the use of the poor of your said Town, according to the Statute, in that case made, and provided; These are therefore in his Majesties name, to Will, and Require you, that you demand of the said parties, and every of them, the said sum of 20 s, apiece, and if they, or any of them, shall refuse, or neglect payment thereof; That then you levy the said Sum, or Sums, of the Party, or Parties, so refusing, or neglecting, by Distress, and Sale of the offenders Goods, according to the Statute in that case made, and provided; And, if no Distress can be taken, or had, that then you bring all such persons before us,

us, or one of us, to be dealt withall, as to Law and Juſtice appertaineth. And alſo, that you give warning to all ſuch Brewers, within your ſaid Town, as ſerve ſuch Unlicenſed Alehouſes with Beer, that they ſurceaſe, and leave of ſelling any more unto them, upon pain of being Indicted, and proceeded againſt according to Law. And hereof fail you not. *Given under our Hands and Seals, this* 2d *day of* September, *in the* 21th *Year of the Reign of our Soveraign Lord King* Charles *the Second* &c. *Anno Dom.* 1669.

To the Conſtables of Dale.

W. S. &c. Whereas *J. S.* of your Pariſh of *Dale*, hath been duly convicted before me the ſecond time, for ſelling Ale and Beer without Licenſe, and for keeping a common Ale-houſe, and Tipling-houſe; for which ſecond offence, he is to be committed to Bridewell for one moneth, according to the Laws provided in that caſe. Theſe are therefore to require you, forthwith to apprehend the ſaid *J. S.* and him to carry to Bridewell within the Caſtle of *Glouc.* to the Governour thereof, who is hereby commanded to receive him, and there to keep him, by the ſpace of one moneth, and to deal with him as an idle, lewd and diſorderly perſon. And this ſhall be your Warrant. Dated, *&c.*

Glouc. ſ.

For ſelling Ale without Licenſe the ſecond time.

Grounded upon 3 Cap. 1.

W. S. &c. To *J. S.* and *W. S.* of *Dale*, in the County of *G.* Whereas *W. S.* of your Pariſh, Ale-houſe-keeper, was duly convict before me, for ſelling leſs then one full quart of his Ale for one penny, & of the ſmall, leſs then 2 quarts for one penny;

Glouc. ſ.

and

and I did thereupon send my Warrant to the Constable of your Parish, *J. S.* being then the Constable there, to give him notice thereof, and to call upon him to do his duty in the levying the Sum of 20 *s.* forfeited by him for his said offence, by way of distress to be taken of the Goods of the said *W. S.* and that the same being detained six days, and no satisfaction made to him, that then he did presently appraise, and sell the same Goods, and render the overplus, according to the power to him given by the Acts of Parliament in that case provided. But the said *J. S.* hath not levied the same mony, as is said, nor hath certified to me any lack of distress, albeit my said Warrant was sent to him more then 20 days since; by which the said Constable hath forfeited 40 *s.* to the use of the poor of your Parish. These are therefore to require you the said *J. S.* and *W. S.* forthwith to levy the same 40 *s.* of the goods of the said *J. S.* the then Constable, in this wise, *viz.* to take and detain his Goods by way of Distress for 6 days, within which time, if he pay you not, that then you presently appraise and sell the same, rendring to him the overplus. And if no distress can be had, that then you carry the said *J. S.* to the common Gaol of the County, there to remain untill he shall pay the same. And hereof, *&c.*

Glouc. ff.

To commit an Alehouse-keeper for selling without License. Upon 5 and 6 Ed. 6. 25.

W. S. and *K. S. &c.* To the Constables of *D.* in the County of *G.* and every of them. Whereas *J. S.* of *D.* in the said County, hath of his own Authority, taken upon him to keep a common Ale-house in *D.* aforesaid, and still continueth so to do, contrary to the Statute in that case provided, albeit he hath been duly discharged and forbidden so to do by the Justices of the Peace of the County.

We

We therefore do hereby command you, that you do him apprehend, and convey him to the common Gaol of this County, and him deliver to the Keeper there, who is hereby charged to receive him at your the said Constables hands, and him safely to keep for three days, and afterwards till he become bound with good Sureties, before some Justices of the Peace of this County, that he shall not keep a common Ale-house or Tipling-house any more, according to the Statute in that case provided. And hereof, *&c.*

For not coming to Church.

W. S. To the Constables of *Dale*, and either of them. Forasmuch as it is proved before me upon Oath, that *C. D.* of your Town, Gent, did not yesterday (being Sunday) in the fore-noon, repair to any Church, Chappel, or other usual place for Common-Prayer, contrary to the form of the Statute in that case made and provided. These are therefore in his Majesties name, to require the said *C. D.* to come forthwith before me, and shew some reasonable excuse for his neglect therein, and also provide to make due proof thereof, or else to pay 12 d. to the use of the poor of your said Parish. And that you make return of this Warrant, and certifie your doings herein. Given, *&c.* Glouc. ff.

To make Overseers of the Poor.

A. B. &c. *These are to authorize and require you, to send your Warrants to all your Constables and Tything-men of your Hundred, to give notice to all the Church-wardens and Officers for the poor of their*

their several Parishes respectively that they or some of them, be at the house of &c. (day and place) with a true and perfect account in writing, of all the sums of money by them received, or Rated, and assessed, and not received; as also of such stock as is in their hands, or in the hands of any setters of the poor to work, and of all other things concerning their Office. And the same first examined and allowed by some of the most substantial persons of their Parishes, under their hands. And also that they do then and there give us in writing, the Names and Sur-names of 3. or 4. of the most substantial Inhabitants in their several Parishes, that we may chuse some of them to be Overseers of the Poor, for each several Parish for the next year. And hereof, &c.

The Justices appointment of Overseers of the Poor

Vicessimo Maii, 1669.

MEmorandum, that we, the *Justices of Peace*, in, and near the Parish of *N.* in the County of S. according to the Authority of the Statute, in the 43. year of *Elisabeth*, (*Capite secundo*) *for the relief of the Poor*, do appoint unto the Church-wardens, *R.C. J.G. P.L.* and *T.C.* to be Overseers of the Poor of the said Parish, for the said Statute, to raise weekly, or otherwise, by Taxations of every Inhabitant, and every occupier of the Land, within the said Parish, by the consent of two, or more such Justices of Peace, in such competent Sum and Sums, as they shall think fit, a convenient Stock of Wares, and Stuff, to set the poor on work, and also competent Sums of Money, for,

for, and towards the neceſſary relief of the lame, old, impotent, and ſuch other among them, being poor, and not able to work, and ſee the putting out of Children to be Apprentices, and to do, and execute all ſuch other things, as by the ſaid Act they be authoriſed. Theſe are hereby further to charge, and command the Church-wardens, and Overſeers of the Poor, for this year paſt, within four days after the publication hereof, to make, and yeild up unto us a true and perfect account of all ſums of money, by them received, and alſo of ſuch Stock as ſhall be in their hands, or in the hand of any of the poor to work, and of all other things concerning their ſaid Office, and ſuch ſum or ſums of money, as ſhall be in their hands, to pay, and deliver to ſuch of the Church-wardens, and Overſeers newly nominated, and appointed, upon pain of 20 s. to him, or them that ſhall fail therein. Given the day and year above written, and in the twelfth Year of the Reign of, &c.

To Confirm the Rate.

Subſcribe the Rate thus.

Glouc. ff. SEen, ratified and allowed by us, whoſe names are here under-written, two of the Juſtices of the Peace, within the parts and County aforeſaid. And we do hereby authorize the preſent Church-wardens and Overſeers of the poor within the Pariſh of *Dale*, and every of them, to levie by way of Diſtreſs and Sale of the Goods of all ſuch perſons as ſhall refuſe or neglect to pay their ſaid Rates upon them impoſed, rendring to the owners the overplus, according to the Law provi-

ded in this Case. Given, &c. But it will be safer after demand of the money, that the Overseers have another Warrant, such as the next Warrant that followeth.

To distrain for the Money.

A. B. and *C. D.* Esquires, two of the Justices, &c. To the Church-wardens and Overseers of the poor of the Parish of *Dale*. Forasmuch as the persons under-named within your Parish (as we are informed) being duly assessed by you the said Church-wardens and Overseers, to a weekly Contribution, for and towards the necessary relief of the poor, and towards a convenient Stock of necessary Wares, and Stuff to set the poor on work, according to the Statute in that case provided, have refused, or do neglect to contribute as they have been assessed, and to pay their Rate upon demand. These are therefore to authorize you the said Church-wardens, and Overseers, or any of you, after a demand, to levie all such sums of money as shall be unsatisfied, and unpaid by any of the said persons so rated, and denying or neglecting to pay their Rate as aforesaid, by Distress and Sale of their Goods, rendring to the parties distrained, the overplus, according to the Laws in this case provided. And if you can find no goods to distrain, that you return their names to us, that we may proceed therein, as cause requireth. And hereof, &c.

A War-

A Warrant for such as shall refuse to take Apprentices.

To the Constables of Boutn, *their Deputies, or either of them.*

THese are to will, and require you, and in his Majesties Name, straightly to charge, and command you, that presently, upon the receipt hereof, you bring before the next Justice of Peace unto your Town, the Bodies of these Persons here under named, to give account for their refusing such Apprentices, as were appointed unto them heretofore by His Majesties Justices, or else stand to such Order, as shall be agreeable to Law, and His Majesties pleasure declared therein. Herein fail you not, as you will answer to the contrary. Given under our Hands this present day, being the second of *May*, 1669.

We have not given any President for compulsion of the Overseers of the Poor to account, or for levying of 20 s. for their neglect in their Office; or for the commitment of such to prison, as pay not their Rates, because we doubt of the legality of them, and think it not safe for Justices to make such Warrants without very good advice.

To send a Bastard-Child to the place of his Birth.

A. B. &c. To all Constables, Tything-men, and such like Officers of the Parishes of *L. M. N. O.* whom it may concern. Whereas *W. T.* the Bastard-Child of *S. T.* of the age of 4 years, or thereabouts, *Glouc. ff.*

hath been found wandring, and being up and down in the Pariſh of St. *M.* and other places thereabouts, and was (as we are credibly informed) born in the Pariſh of *Dale*, as appeareth by the Church-Book of the ſaid Pariſh. Theſe are, &c. To require you, that according to the general uſage, cuſtom, and common acceptance of the Law in this point, of a loſt Child, that you do convey the ſame Child to the ſaid Pariſh of *Dale*. And that you the Church-wardens and Overſeers for the Poor of that Pariſh, do take care, that the ſaid child be there provided for, according as you will anſwer the contrary, &c.

Of the reputed Father of a Baſtard-Child.

Glouc. ſſ. *A. B.* &c. To the Conſtable of *Dale*. Whereas complaint hath been made to me by *C. D.* of your Town, ſingle Woman, that ſhe is gotten with child by one *T. D.* alſo of your Town. Theſe are therefore to require you in His Majeſties Name, that preſently upon ſight hereof, you attach the Body of the ſaid *T. D.* and thereupon to bring him before me, or ſome other of His Majeſties Juſtices of Peace for the ſaid Parts and County, to find ſufficient Sureties, as well for his appearance at the next general Quarter-Seſſions of the Peace, to be holden at *B.* for this County, to the end he may be forth-coming, when as order ſhall be taken for the relief and diſcharge of the ſaid Town of *Dale*, and for the keeping of the ſaid Child, when it ſhall happen to be born, according to the Statute in that Caſe provided; as alſo for his good Behaviour towards his Majeſty, and all his liege people in the mean time, &c.

The

The Record of a forcible Entry.

Middlesex. R. *B.* Esquire, one of the Justices of the Peace of our Soveraign Lord the Kings Majesty, within His said County of *Middlesex*, To the Keeper of His Majesties Gaol at *Newgate*, and to his Deputy and Deputies there, and to every of them, Greeting. Whereas upon complaint made unto me, this present day, by *A. B.* of *B.* in the said County, Yeoman, I went immediately to the Dwelling-house of the said *A. B.* in *B.* aforesaid, and there found *C. D. E. F.* and *G. H.* of *B.* aforesaid, Labourers, forceably, and with strong hand, and armed power, holding the said House, against the Peace of our said Soveraign Lord the King, and against the Statute of Parliament, thereof made, in the fifteenth year of the Reign of King *Richard* the Second. Therefore I send you, by the bringers hereof, the Bodies of the said *C. D. E. F.* and *G. H.* convicted of the said Forcible Holding, by mine own View, Testimony, and Record, Commanding you in his Majesties name, to receive them into your said Gaol, and there safely to keep them, until such time as they shall make their Fines to our said Soveraign Lord the King, for their said Trespasses, and shall be thence delivered, by the order of the Law of this Land. Hereof fail you not, upon the peril, that may follow hereof. Given at *B.* the day and year aboveſaid.

For such as were said detaining by force.

The *Precept* to the Sheriff, in the nature of a *Venire facias.*

Note, Theſe are always made by the Clerk of the Peace, and no Juſtice ſitteth alone about this Cauſe, except the *Cuſtos Rotulorum.*

R B. *Armiger, unus Juſticiariorum Domini Regis, ad pacem in Comitatu* Middleſexiæ *conſervandam aſſignatorum, Vice-Comiti ejuſdem Com. Salutem. Ex parte dicti Domini Regis, tibi mando, & præcipio, quod* Venire facias *coram me apud* B. *in Com. prædicto, viceſimo die* Septembris *proxime futuro viginti quatuor probos, ſufficientes, & legales homines de vicineto de* B. *prædicto, quorum quilibet habet quadraginta ſolidos Terrarum, & Tenementorum, vel redditnum per annum, ad minus, ultra repriſas, ad inquirendum ſuper Sacramentum ſuum pro dicto Domino Rege de quodam ingreſſu manu fortì facto in Meſſuagium cujuſdam* A. B. *apud* B. *prædictam, contra formam Statuti in Parliamento Domini* Henrici *nuper Regis Angliæ Sexti, Anno Regni ſui octavo, tento, editi, & proviſi. Et videas, quod ſuper quemlibet Juratorum prædictorum in hac parte impanellandorum viginti ſolidi de exitibus, ad præfatum diem return. Et hoc nullatenus omittas ſub pœna* 10 l. *quam noveris te incurſurum ſi in executione præmiſſorum tepidus, aut remiſſus fueris; & habeas ibi tunc hoc* Præceptum. *Teſte me, præfato* R. B. *viceſimo quinto die* Martii, *Anno Regni Domini noſtri* Caroli, *Dei gratia*, Angliæ, Scotiæ, Franciæ, *&* Hiberniæ *Regis, &c. viceſimo primo.*

The

The *Warrant* to the Sheriff, for the making of Reſtitution; if the Juſtice himſelf will not make it.

Note, This is alwayes done by the Clerk of the Peace, in the Kings Name.

R B. *Armiger, unus Juſticiariorum Domini Regis, &c. aſſignatorum, Vice-comiti ejuſdem Com. Salutem. Cum per quandam Inquiſitionem pridie coram me captam apud* B. *in Com. prædicto, viceſimo nono die* Januarii, *&c. ſuper Sacramenta* A. B. C. D. E. F, &c. *ac per formam Statuti de Ingreſſibus manu forti factis in tali caſu proviſi, Compertum fuit, quod* A. B. *&c. & alii, &c. primo die* Februarii, *&c. in quoddam Meſſuagium, &c.* C. D. &c. *in* B. *prædicta, vi & armis, ingreſſi ſunt, ac ipſum* C. D. *inde tunc manu forti diſſeiſiverunt, & expulerunt, & prædictum* C. D. *ſic expulſum, a prædicto Meſſuagio, &c. a prædicto primo die* Februarii, *uſque ad diem captionis Inquiſitionis prædictæ, manu forti, & cum potentia, extra tenuerunt, prout per Inquiſitionem prædictam plenius liquet de Recordo: Ideo, ex parte dicti Domini Regis, tibi mando, & præcipio, quod (ad hoc debite requiſitus) una cum Poſſe Comitatus (ſi neceſſe fuerit) accedas ad Meſſuagium, & cætera præmiſſa, ac eadem cum pertinentibus, reſeiſiri facias, & præfatum* C. D. *ad, & in plenam poſſeſſionem ſuam inde, prout ipſe (ante ingreſſum prædictum) fuerat ſeiſitus, reſtitui, & mitti facias juxta formam dicti Statuti. Et hoc nullatenus omittas, periculo incumbente. Teſte me, præfato* R. B. &c.

Proclamation for Silence, upon the reading of his Majesties Writ upon the Statute of Northampton.

THE Kings Majesties Justice of the Peace, straightly chargeth, and in his Majesties Name, Commandeth all, and every person to keep silence, whilest His Majesties Writ, upon the Statute made at *Northampton*, in the second year of King *Edward* the Third, his Noble Progenitor, delivered to the said Justice be read, and Proclamation hereof be made accordingly, &c.

The Proclamation of the Statute of Northampton (2. and 3.) *against wearing Armour.*

Then may be read the Writ, *or declare the effect hereof in English.*

HIs Majesties said Justice doth in His Highness Name, and by vertue of his said *Writ*, straightly charge and command, that no manner of Person, of what Estate, Degree, or Condition soever, now being within the House of *B.* &c. *(named in the said Writ)* shall go armed, or keep force of Armour, or Weapon, nor do any thing there, or elsewhere, in disturbance of his Majesties Peace, or in offence of the said Statute, upon the pain of loosing his said Armour, and Weapon, and of imprisoning his Body at His Majesties pleasure.

The

The Return of the Writ,

God save the King.

UPon the Writ it self may be endorsed ; *Executio istius Brevis patet in quadam Schedula eidem Brevi connexa. Ego* R. B. *Armiger, unus Custodum Pacis Domini Regis in Comitatu* Middl. *certifico in* Cancellaria *dicti Domini Regis, Quod, virtute istius Brevis mihi primo deliberati, decimo die* Aprilis, *Anno,* &c. *publice proclamari, ex parte dicti Domini Regis, feci apud* B. *cujus in dicto Brevi fit mentio, prout in dicto Brevi præcipitur ; Et quod quidam* A. C. D. E. *&c.* Labourers, *post prædictam Proclamationem, ibidem sic factam, armati iverunt, & armatam potentiam ibidem duxerunt ; Scilicet duas Galeas, unum Arcum, & decem Sagittas, duos Gladios. & totidem Pugiones, in perturbationem pacis dicti Domini Regis, ac terrorem populi sui, nec non in contemptum Statuti in dicto Brevi specificati manifestum ; Ac proinde dictos* A. C. D. E. *una cum Armaturis suis prædictis, arrestavi, ac seisivi, & eorum corpora ad proximam Prisonam dicti Domini Regis in Comitatu prædicto feci, ibidem moraturs, donec aliud a dicto Domino Rege pro ipsorum deliberatione habuero in mandatis. Armaturas etiam eorum prædictas appreciari feci per* F. G. H. I. K. L. *de* B. *prædicta,* Yeoman, *ad hoc Juratos ; qui dicunt super Sacramentum suum prædictum, quod prædictæ duæ Galeæ valent* 10 s. *& quod dictus Arcus* 20 d. *& quod Sagitte valent* 6 s. *& quod Gladii prædicti valent* 20 s. *& quod dicti Pugiones valent* 5 s. *& sic quod Armaturæ prædictæ valent, in toto,* 42 s. 10 d. *De quibus paratus sum respondere,*

reſpondere, ſecundum tenorem dicti Brevis. In cujus rei teſtimonium huic preſenti Certificationi meæ Sigillum meum appoſui. Datum apud B. prædictam, die, & anno, ſupradictis.

A *Precept* to the Sheriff, for enquiry upon a Riot.

R B. W. G. *Armigeri, duo Juſticiariorum, &c. aſſignatorum, Vice-Comiti ejuſdem Com. Salutem. Ex parte dicti Domini Regis tibi præcipimus, quod venire facias coram nobis, apud* I. *in Com. prædicto, viceſimo ſecundo die* Maii, *prox. futuro, viginti quatuor probos, ſufficientes, & legales homines de Com. prædicto, quorum quilibet habeat Terras, & Tenementa infra dictum Com. libere tenta per Chartam, ad annuum valorem* 20 *s. aut per Copiam Rotulorum Curiæ, ad annuum valorem* 26. *ſolidorum &* 8. *denariorum, aut per utrumque, ultra omnes repriſas; Ad inquirendum pro dicto Domino Rege, ac pro indempnitate noſtra in hac parte, ſupra Sacramentum ſuum, de quibuſdam illicitis aggregationibus, & riotis apud* C. *in Com. prædicto nuper commiſſis, ut dicitur. Et hoc nullatenus omittas ſub pœna* 20 *l. quam incurſurus es, ſi in executione præmiſſorum defeceris. Et habeas ibi tunc nomina Juratorum prædictorum, & hoc* Præceptum. *Datum ſub Sigillis noſtris, &c.*

A Pre-

A Precept or Warrant, to bring certain riotous Persons before a Justice of Peace.

Middl. FOrasmuch as I am credibly informed by *M. S.* Esquire, that *J. C.* &c. and divers, and sundry other persons unknown, have come upon the ground of the said *M. S.* in *M.* aforesaid, and there have been aiding and assisting to these Persons above-named, in forcible manner to carry away the Wood, and Timber, there of late growing, being the Wood and Timber of *M. S.* These are therefore in the Kings Name, to Command you, and every of you, to Arrest as well the said Parties before-named, as the said persons unknown, being shewed unto you by the same *M. S.* and to bring the same before me, and this shall be your Warrant, and Discharge.

Orders and Rules to be observed in the time of the Plague.

A Warrant to the Church-wardens, and Overseers of the Poor of C. *and to every of them, &c.*

FOrasmuch as the Sickness of the Plague, doth so exceedingly encrease within the City of *L*, Borough of *S.* and the Parishes adjoyning, as it hath occasioned the Kings Majesty, to defer the publick Heroick Solemnizing of his Coronation, to avoid concourse of people, which might encrease the Infection through all parts of the Realm, and purposeth to be Crowned at *Westminster* very shortly, without any great shew; and yet must repair hither, where-

whereupon His Highness hath specially directed, that we shall, as well by good Orders, endeavour as much as in us lieth, to cease the Infection in such places, where it already is, as also to prevent the same in the Parishes near *L.* whereas it is in performance of our duty herein; We do, in his Highness's Name, Command and Charge you, the Officers, to give Example of good Order, and to give warning to the Inhabitants, to observe the Order, hereunder prescribed, during the time of this Infection.

1. That from henceforth your self, nor any of them, do receive into your House, or harbour any Citizen of *L.* or other person, their Children or Servants, that come from Houses infected.

2. That no person whatsoever shall, from henceforth receive, any Napery, or other Linnen, out of *L.* or the Suburbs in other Parishes, that are infected, and the same to wash, and dry within this Parish, and if those that are Washers, be so poor, as without that help, they cannot relieve their Family, to give notice, that Order may be taken for their succour, during this time of restraint.

3. That no Ale-house-keeper do suffer to drink, or abide in his House on the Sabbath, or other days, any that shall come from *L.* or the Suburbs, during the time of this Infection.

4. That Ale-house-keepers shall not make any publick Dinners within their Houses, to occasion concourse of people, either upon Marriages, or other meetings.

5. That two honest ancient Women, of good carriage, inhabiting within the Parish, be appointed for Searchers, and presented unto some of us to be sworn, that, if any Sickness should happen within

within the Parish, which God prevent, shall search, and view the Bodies of such dying, to discover the quality of the Disease, and thereof to make Certificate.

6. That if any, being poor people, happen to dye of the Plague within this Parish, then to cause their Houses to be shut up, and the Church-wardens, and Overseers of the Poor, to see them relieved, and if they have not in their hands sufficient, to give notice unto us, that we presently take order for their relief.

And, for that Annoyances are chief occasions of infection, you shall command all dung-hills, lay-stalls, and other noysom Annoyances, being in the Villages, or near the High-ways, within the Parish, presently to be removed.

And, if we shall find your selves negligent, or remiss in your office, or offenders, touching these Orders, you shall be certified to the Lords of His Honourable Council, to be punished, as the quality of the offence requires.

And, if any other person offend you, you shall presently present his, or their names to us, that such punishment may be inflicted, as is fit. And thereof fail you not. Given under our Hands and Seals, this fifth of *July*, *Anno Regis*, &c. *vicessimo primo*, *Annoq*; *Domini*, 1669.

Further

Further Directions against the *Plague*.

To the Church-Wardens, and Overseers of the Poor of the Parish of, &c.

WHereas we gave long since special Orders unto you, for the avoiding of the increase of the *Contagion*, and considering, it hath pleased God now, of his goodness, to assuage the Sickness in great measure amongst us; we are let to understand by Letters, from the Lords of His Majesties *Privy Council*, that there hath been a slackness, and no due regard in the performing your duties on your parts; and therefore we are required again by them to do our best endeavours for the executing of such former directions. These are therefore, in the Kings Majesties Name, strictly to will, and require your careful and speedy endeavours in the observation, and keeping all those orders, and directions (concerning the stay of the *Contagion*) whereof we have formerly prescribed unto you; both for the preserving them, that be already infected, and preventing from others that are now whole. And if any person shall be obstinate, and hinder the proceedings of the said directions, that you cause them to be brought before one of us, to receive such condign punishment, as the quality of the offence shall require, or deserve. Whereof fail you not, as you will answer the contrary at your perils. Given at, &c.

CHAP.

CHAP. LII.

Anno 15 Car. 2. Regis.

An Act of the present Parliament, for the repair of the High-ways, within the Counties of Hertford, Cambridge *and* Huntington.

To continue for 11. *years.*

FOr the amending of the ancient Highway, and Post-Road leading from *London* (for many miles in the County of *Hereford*, *Cambridge*, and *Huntington*) to *York*, and so into *Scotland*; and likewise from *London* to *Lincolnshire*; and from the City of *Norwich*, St. *Edmonds-Bury*, and the Town of *Cambridge* to *London*, it is provided as followeth: First, for what the Justices of Peace are to do.

What the Justices of Peace have to do, herein, in, or out of Sessions.

1. That for the year 1663. and until the *Quarter-Sessions* then next following, 4 Justices of the Peace, or any two of those 4 Justices, of each of the said Counties respectively, that dwell next to the same High-ways, shall name and appoint 9 able and sufficient persons, of each of the said Counties respectively, to be Surveyors thereof, for the surveying, ordering, repair, and keeping in repair thereof for this year. And if they neglect or refuse the Office, set any Fine under 10 *l.* in their *Quarter-Sessions* upon the Refuser, and levie the same by distress and sale of goods. But this cannot be (as it seems) without Conviction, which must be in the ordinary way. And in this case, where any one so chosen shall dye, or shall be discharged of his Office,

To appoint Surveyors. When, and where this is to be done

fice, there two or more Justices of the County, near to the place, may appoint some other fit person in his place, and give him notice thereof, under their Hands and Seals; and if he refuse, or neglect it, to be under the same penalties, as the Refusers of them that were first elected.

2. That from the Sessions next after 1663, this be done yearly by the Justices at their Sessions, to be held next after *Easter*, for the year from thence next ensuing.

To give notice to the Surveyors chosen in writing.

3. The said Justices of each County respectively, are to give notice thereof in writing to the persons chosen, of their choice.

To approve of the choice of the Collector of Toll.

4. Any two of them living near to the places named, where the High-ways go, are to approve of the choice of the Collector and Receiver of Toll made by the Surveyors. And these two Justices may remove the old, and choose new Receivers as they see cause.

To end differences between the Surveyors and others, about hire for their Work, and digging.

5. If any difference be between the Surveyors and Labourers for themselves, or their Teams, &c. about their hire, for their own, or their Plows work, any two of the Justices are to decide it, and what Allowance shall be given for the Team, Cart, &c. and for the Labourer. And if any difference be between the Surveyors, and any man, about recompence for digging in his Ground for Gravel, &c. or about filling the pits, this is by the Justices to be decided at a Quarter-Sessions.

To take the Account of Surveyors, and to punish their refusal to account.

6. They are at their *Easter* Quarter-Sessions yearly to take an Account of the Surveyors, of the money by them received and laid out. And then they are to make such Allowance to the Surveyors, for their pains in their Offices, as the Justices shall think fit. And if they refuse so to account, and pay

in

in their money, they may be by the Justices at their Quarter-Sessions, (and that as it seems by 2 credible Witnesses upon Oath, without Verdict) be convicted of the Offence, and sent to Prison to the Common-Gaol, there to be till they do account.

To set a Rate on the County.

7. Where want of money is to repair the High-ways, there the Justices of each County in their Quarter-Sessions, may make a Rate upon the Parishes and places, that lye in or near the Road, and for repair only of their own County-wayes, to raise such money as the Justices shall think fit for the doing thereof, to be paid to the Surveyors or their Treasurers.

8. If at the end of the 11 years, upon the Account of any Receiver of Toll, any money be found in his hand, and he pay it not into the Justices at their next Quarter-Sessions, as he is to do, he forfeits double so much. And any two Justices of that County, may by Warrant under their Hands and Seals, cause the same to be levied by distress and sale of the Parties goods, rendring to him the overplus. And this money (if any such be) the Justices at their Quarter-Sessions may order to be kept and imployed as a Stock, towards the repair of the same High-ways.

9. If the Justices of Peace for the County of *Huntington*, or any four of them, dwelling next the High-Road, shall judge another place more convenient then *Stilton* for Receipt of the Toll of that County, That they may appoint such other place in stead of *Stilton* for it.

10. If the Justices at their Quarter-Sessions, at any time during the 11 years, shall adjudge the High-ways of their County (named in the Statute)

to be ſufficiently repaired; That from that adjudication, and payment of ſuch money as ſhall be borrowed, the Toll of that County is to ceaſe and determine.

What the Surveyors have to do herein.

2. For what the Surveyors are to do.

The Surveyors ſo choſen, as before, by the Juſtices, are to do as followeth:

To meet to conſult together.

1. They are within a Week of this Notice, having no lawful impediment to be allowed by the Juſtices that do chooſe them, are to meet in each of theſe Counties reſpectively, in ſome convenient place of each County appointed by the Juſtices at their Quarter-Seſſions, to view and ſurvey the ſame High-wayes, and to conſider what Reparations ſhall be needful.

To provide Materials.

2. Theſe Surveyors are in each County to provide Stones, Gravel, and other Materials and Neceſſaries for the Work.

To make a Collector of Toll, or other Officer.

3. Any three of theſe Surveyors of each County, with the approbation of two or more Juſtices of the County living near, ſo met together, to the Places and High-way named, may appoint one or more fit perſons for Receivers or Collectors of Toll, to receive Toll or Cuſtom of all Travellers, &c. upon the ſame wayes, or make any other Officer as they ſhall find neceſſary to carry on the Work. For which a moderate allowance is to be given.

To require Ploughs and Labourers, and order the work.

4. Any three or more of theſe Surveyors, they are to appoint and require all the Inhabitants within three miles of the places named, and in the ſame County that are by the Law chargeable, to find Wayn, Team, or Cart, for the amending of the High-ways, and other perſons chargeable in perſon to labour therein for three days in the week out of Seed, Hay, and Corn-Harveſt time, to come or ſend their

their Wayns, Carts, or Teams, provided, as by Law they ought to do for the repair of the High-ways. And being come to appoint them their Work; and for what they do, they are to pay them after the rate of the Country; and if any difference be, apply themselves to two of the Justices to end it. To pay them for their work.

5. Any three, or more of these Officers, for the repair of these ways, may appoint to do, take, and carry away so, as much as they shall think needful, of Gravel, Chalk, Sand, or Stones out of the Waste or Common of any Neighbouring Parish or place, near adjoyning to the place of decay (without paying any thing for it, or (if it be not there to be had) in any mans several Ground (not in a House, Garden, Orchard, or Park stored with Dees) in a Parish chargeable to the Repair of the High-ways, giving only satisfaction to the owner of the Ground for the damage he hath thereby, as the Justices at any of their Quarter-Sessions shall set down, if any difference be. But they must take care, that where they shall so do, they do then with all speed convenient fill up and level the same, or else rayl them about, that they be not dangerous to man or beast. To take materials where it is to be had.

6. They are always at the Quarter-Sessions next after *Easter*, to give in an account to the Justices under their Hands, of all the money received from the Collector, and of all laid about the High-ways, or in execution of their Offices. And if they have any money in their Hands, they are to pay it in to the hands of the Surveyors for the next year, or the Treasurer or Receiver by them appointed. And then they are to have allowance for their pains: and if they shall not account and pay in the money (as before) they may at any Quarter-Sessions To make their Account, and pay over the money.

be committed to Prison, till they do so account and pay in their money.

To levy money on a Rate.

7. If the Justices at their Sessions make any Rate for repair of these High-ways, these Surveyors are to Collect and to receive it. And where any person doth refuse the payment of the money rated, they must distrain for it, and sell the Distress, rendring the overplus to the Owner.

To engage the Toll to borrow money to repair the High-ways.

8. These Surveyors may also with consent of the Justices in their Quarter-Sessions, borrow money for repair of the High-ways, and engage the Profits arising by the Toll, in and for their own County by Indenture under their Hands and Seals, by Grant to others, for any time under 9 years, for security of repayment of the money borrowed with Interest, and therewith repay the money borrowed.

9. They, or their Treasurers are to receive all the Fines and Forfeitures, and them to employ towards the Repair of the High-ways, named in the Statute.

What the Collectors of Toll are to do.

What the Receiver or Collector of Toll is to do, to take Toll.

1. The Collector of Toll duly chosen (as before) by the Surveyors, with the Approbation of the Justices, is to demand and receive Toll and Custom for all the Horses, Coaches, Waggons, Droves, and Gangs of Cattel, that shall pass, be led, or driven in, or through the wayes named in the Act, after the proportion following, *viz.*

The Toller is to take.

For a Horse——i d.
For a Coach——vi d.
For a Waggon——xii d.
For a Cart——viii d.

But no man that hath occasion to pass, and doth return

return the same way with Horse, Coach, Wagon, or other Carriages, or with Cattel, is to pay Toll a second time.

For every 20 Sheep or Lambs, a half-peny; and so proportionably for greater Numbers.

For every 20 Oxen, or Neat-Cattel, ——— v d. And for every greater or lesser Number proportionably.

For every Score of Hogs ——— ii d. And so for any greater or lesser number under five. And this, after these Rates, the Collector of Tolls is to receive.

And this to be paid and received, at *Wades*-Mill, for the County of *Hertford*. At *Caxton*, within the County of *Cambridge*, for the County of *Cambridge*. And at *Stilton*, within the County of *Huntington*, for the County of *Huntington*. But all persons passing through these places, that come immediately and primarily to, and from the several Parishes of *Standen*, *Thundridge*, *Ware*, and *Bengeo*, adjacent to the same *Wades*-Mill; and to, and from great *Papworth*, little *Papworth*, and *Elsley*, adjacent to *Caxton*; and to and from *Yaxley*, *Washingly*, *Glatton*, *Cuningtan*, *Waddon*, and *Stiblington*, adjacent to *Stilton*, may carry any quantities of Stones, Sand, Lime, or Gravel, Dung, Mould, and Compost, of any kind whatsoever, Brick, Chalk, or Wood: And that they, and all Carts with Hay, Corn in the Straw, at Hay-time, or Harvest, Plows, Harrows, and Implements of Husbandry, and other things whatsoever, imployed in the husbanding, stocking, and manuring of the Lands in the said Parishes, shall pass to and fro through the said places, where such Tolls is to be received, not paying any

thing for Toll. Nor is any Souldier that passeth in his march through either of these places to pay any Toll.

To distrain such as will not pay.

2. If any refuse or neglect to pay to the Collector this Toll upon demand, the Collector may distrain the Horse, Cart, Coach, Waggon, Oxen, or other Cattel named, or any of them, and detain them until the Toll and his Demand by the Distress be paid.

To give an account, and pay over the money.

3. They are from time to time to render an account of all the money they so received, and pay in the money by them received, to the Surveyors, or any three or more of them, when by them required so to do; otherwise they may be committed to Prison by the Justices, at any Quarter-Sessions, till they do it.

To distrain for money rated.

4. If any Rate be made by the Justices in their Sessions to raise money, for the amending of the High-ways, these Receivers or Collectors, as well as the Surveyors may distrain for it, and sell the Distress, rendring the overplus to the Owners.

5. The Receivers or Collectors of the Toll that shall be in this Office at the end of the 11 years, if they upon their account shall then have any of the same remaining in their hands, are to bring in the same money to the Justices of Peace at their next Quarter-Sessions, under pain to forfeit double so much, to be recovered by Distresse and Sale of Goods.

What all other persons are to do herein.

4. For that which all others are to do.

To come to High-Way Works with Plows, &c. when required.

1. All persons that have Wayns, Carts, or Teams that by Law are to come with them to the High-wayes, and that are chargeable to work there themselves, and that live within three miles of the place

where the Work is to be done from the parties dwelling, that is by himself or his Wayn, &c. to do the work upon convenient notice by the Surveyors to come to the place they appoint, and there to do the work they appoint. But this may not be at Seed, Hay, or Corn-Harvest time; nor may it be above three days in one week. And for this they are to be paid after the Rate of the Countrey. And if any difference be between them and the Surveyors, the Justices must decide it.

2. They are to suffer the Officers to take materials for the Work, taking the same according to the power before given to them. To give way to the taking of Gravel, &c. in their grounds.

3. Every person who shall travail with Horse, Coach, Cart, or Waggon, or shall lead, or drive any Oxen, Sheep, Horses, or other Cattel, as before are to pay to the Receiver of Toll the sums before set down, at the places appointed for the receipt thereof. And if he refuse to do it, he may be distrained by the Collector for it. To pay Tol.

All the Fines and Forfeitures upon this Law are to be paid into, and received by the Surveyors or their Treasurers.

If any Suit be brought against any one for any thing done in pursuance of this Act, it must be in the County where the cause of Action doth arise: And the Defendant may plead the general Issue, and give the Act and special matter in evidence. And if the Jury find for the Defendant, or upon Demurrer Judgement be given for the Defendant: Or if the Plaintiff discontinue his Action, or be Non-suit after the Defendant hath appeared, the Defendant shall recover double Costs, and have like remedy for the same, as in other Cases.

Every one is to be chargeable towards the repair of the High-ways, as formerly they were chargeable, this Act notwithstanding.

CHAP. LIII.

Anno 13 *Car.* 2. *Regis.*

An Act for the punishment of unlawful cutting, or stealing, or spoiling of Wood, and Under-wood, and destroyers of young Timber-trees.

THE Act of 43 *Eliz.* Intituled, *An Act to avoid and prevent divers Misdemeanours in idle and lewd persons*, is mentioned. And thereunto it is added as followeth:

The power of all Officers, and others herein.

1. That every Constable, Headborough, or other person in every County, City, Town Corporate, or other place where they shall be Officers or Inhabitants, shall have power to apprehend, or cause to be apprehended such as they suspect for having, or carrying, or any wayes conveying any burthen or bundles of any kind of Wood, under-wood, Poles, or young Trees, or Bark, or Bast of any Trees, or any Gates, Stiles, Posts, Pales, Rails, or Hedge-wood, Broom or Furze.

The power of an Inferiour Officer.

2. Any Officer by Warrant under the hand and seal of one Justice, may enter into the houses, out-houses, yards, gardens, or other places belonging to the houses of such persons as they shall suspect to have any such Woods, Under-woods, &c. And whersoever they shall find any such, to apprehend, or cause to be apprehended the person suspected for the cutting and taking of the same.

And

And those also in whose houses or other places belonging to them any such Wood, under-wood, *&c.* shall be found to carry before one Justice of Peace of the County, City. *&c.* And if he shall not then and there give a good Account how he came by such Wood, Under-wood, *&c.* by the consent of the Owner, such as to satisfie the Justice, or shall not within a covenient time limited by the Justice, produce the party of whom he bought the same Wood, Under-wood, *&c.* or some other credible Witnesse to depose upon Oath such sale of the said Wood, Under-wood, *&c.* (which the Justice may administer) that then the person shall be deemed convict of the said offence of cutting and spoyling of the same Woods, Under-Woods, *&c.* within the meaning of the Statute of 43 *Eliz.* and be liable to the punishment therein contained, and to what is further appointed by this Act.

The power of a Justice of Peace herein out of Sessions.

And the party so convict, shall for the first offence give to the Owner such satisfaction for his Damage, and within such a time as the Justice shall appoint, and over and above pay down presently to the use of the Overseers of the Poor of the place where the offence is committed, such a Sum not exceeding 10 s. as the Justice shall appoint. And if the offender shall not perform the Justice of Peaces order herein to the Owner & Overseers of the Poor; then the Justice is to commit him to the House of Correction, for so long (not exceeding one month) as he shall think meet: Or to be whipt by the Constable or other Officer as the Justice shall judg most expedient. And if such person shall again offend in the like kind, & be convict as before; That then he shal be sent to the House of Correction for one month, & be there held to hard labour.

labour. And if he shall so offend the third time, & be convicted of his offence as before; That then he shall be taken, adjudged, and deemed as an incorrigible Rogue.

The power of a Justice of Peace herein out of Sessions.

3. That if any buy any burthens of Wood, or any Poles or Sticks of VVood, Under-VVood, &c. [the thing before named] which may be justly suspected to have been stollen, or unlawfully come by; any Justice, Mayor, Bayliffs, or head-Officer within his Jurisdiction, may upon Complaint thereof made to him, examine the matter of Oath which they shall administer. And if he find that the same was bought of one that may be justly suspected to have stollen, or unlawfully come by the same; he may then order the party that bought the same, to treble the value of the same to the party from whom the same was stolne or unlawfully taken. And in default of present payment thereof, issue forth his VVarrant to levy the same by Distress and Sale of the Offender's goods, rendring the overplus to the party. Or for lack of such Distress, to commit the party to the Gaol, at his own charge there to remain one moneth without Bail.

4. No man is to be punished by this Law for an offence that hath been punished for the same offence by a former Law. Nor is any man to be questioned for any offence within this Law, unless he be questioned for the same within six weeks after the offence committed.

Observation

It is to be observed upon this Statute, 1. That power is given to an Inferiour Officer by VVarrant under the hand and seal of a Justice, to search the houses, &c. of persons suspected to steal VVood, Under-VVood, &c. and to apprehend and bring before him the persons so suspected; as also those

thoſe in whoſe houſe or other place ſuch Wood, Under-Wood, &c. ſhall be found. But no power is given to the Juſtice to make ſuch a Warrant in expreſs Terms. And yet it may be implyed; for if a Juſtice ſhall make ſuch a Warrant, and the Inferiour Officer execute it, the Execution ſeems to be unqueſtionable, as that which is back'd and warranted by an Act of Parliament. It ſhould ſeem then, that the Warrant is lawful. But it is good to adviſe.

2. It is ſaid for the ſecond offence, and conviction thereof, the offender ſhall be ſent to the Houſe of Correction, &c. But it is not ſaid (as it is in the firſt Clauſe) that the Juſtice of Peace ſhall ſend him thither. And yet it ſeems to be implyed, and ſo to be taken. But it is good to be adviſed in it.

CHAP. LIV.

Anno 14 *Car.* 2. *cap.* 22.

An Act againſt the Theft and Rapine of the Moſſe-Troopers.

Moſſe-troopers. Juſtices may ſet a Rate.

AN Act made to continue from *Michaelmas* 1662. for 5. years to enable the Juſtices of Peace of *Northumberland* and *Cumberland* at their General Seſſions, to make an Order, to ſet a Rate on the Inhabitants of thoſe Counties, for the Safeguarde and ſecuring of thoſe Counties, againſt the violence and Rapine of the Moſſe-troopers. But *Northumberland* County not to be chagred above 500 *l. per Annum*; and *Cumberland*

land not above 200 *l. per Annum*: or they may set it lower, as they see cause.

Justice make Officers.

The Justices of the Peace of these Counties, may at their Quarter-Sessions respectively appoynt certaine men, not above 30 in the County of *Northhumberland*, and 12 in the County of *Cumberland*, to search out, pursue, apprehend, and bring to Tryall the Mosse-Troopers.

The Justices at their generall Sessions, for the same Counties, respectively may give Warrants under their hands and Seals, to the Constables, and other Officers, for the collecting of the same Rate, on the Counties by Distress, and Sale of goods, rendring to the owners the Overplus. And they may examine any Complaint against officers, that refuse or neglect the collection of the Money, or any way hinder the execution of the Act, and bind over such Persons, as they find faultie, to the Quarter-Sessions, there to be punished according to Justice.

They may also appoynt Treasurers, to receive the Money Collected, and to pay over the same, according to their Order in the Quarter-Sessions. And they may agree with such Persons, as they shall think fit to imploy in the Service, and take Securitie of them, for discharge of their Office. And if any, so imployed by them, shall be found negligent in pursuit, and Discoverie of the same Mosse-troopers, that they be uncapable of the same Service for ever afterwards. And the Justices may fine and imprison them for it, as they thinke fit.

And the Statutes made in the 4 and 7. of King James, for the Tryall, suppressing and punishing these offenders, is revived.

In

In the ſame yeare 12 *Car.* 2. cap. 33. and 15. *Car.* 2. cap. 5. 10*l.* is two Acts againſt the planting of *Tobacco* as followeth.

That if any ſet, plant, improve to grow, make, or cure any Tobacco, either in ſeed, plant, or otherwiſe in or upon any ground, earth, feild, or place in *England*, *Wales*, *Ireland*, or the Iſlands of *Guarnſey*, *Jerſey*, *Berwick*, he is to forfeit the ſame, or its valew, and 10*l.* for every Pole of ground ſo planted; whereof a third part to the King, and a third part to the Proſecutor, and a third part to the Poore. But the one halfe of a Pole, or leſſe may be planted for Phyſick, or Chirurgerie. Tobacco.

2. Any Juſtice of Peace, upon complaint to him by the Officers of the Cuſtomes, or others, that any ſuch is planted within their Juriſdictions, may within 10 Dayes after the Complaint, cauſe it to be pluckt up, and burnt.

3. And if any oppoſe the Doing of this, he forfeits 5*l.* to be recovered as before, and Impriſonment till he enter into a Recognizance of 10*l.* to do ſo no more. And theſe ſame may be ſued for in any Court of Record. And if the offender pay not what is recovered, it ſhall be levied by diſtreſs and ſale of his goods; and if no Diſtreſs be, the partie is to be committed to the Common Gaol, to be there for 2. Moneths, without Bayle. By this the Juſtice of Peace can do nothing out of Seſſions, but take up and burne the Tobacco. *Quere* if any thing in the Seſſions.

CHAP. 55.

An Act, 15 Car. 2. cap. 9. *againſt Offenders in the Exciſe of Beer and Ale.*

Exciſe of Beer and Ale. The Deceits therein.

BY this Act any two Juſtices of Peace, or Magiſtrate of the place where the offence ſhall be, may take the oath of two Witneſſes, and examine and determine any of the offences in it, and cauſe the penalties therein, to be inflicted upon the offender, to be levied by VVarrants, under their hands and Seales, by Diſtreſſe and Sale of goods. And for want of Diſtreſſe ſend the offender to Gaol for 3. Moneths without Bayl.

So for the 50 *l.* penalty for every Tun, Fat, Back, Copper, &c. upon the common Brewer, Inn-Keeper, Victualler, or other Retailer of Beer or Ale, that ſhall, without giving notice thereof at the next Office of Exciſe, or to one of the Commiſſioners, Fermors, or Subcommiſſioners of Exciſe, for that place, where he is, ſet up, alter, or enlarge any Tun, Fat, Back, Cooler, or Copper, and make uſe of them, for Brewing, or making any Beere, or Ale, or wort. Or make uſe of, or keep any private and concealed Store-Houſe, Cellar or other place, for the laying in of any Beere, Ale, or Wort, in Cask, other then ſuch as are already openly ſet up, and made uſe of in his common & uſual Brew-Houſe now known. And the 50 *l.* penalty on him, in whoſe occupation any Houſe, Out-Houſe, or other place whatſoever, where ſuch private and concealed Tun, Back, Cooler, or Store-Houſe ſhall be found and diſcovered. And where any ſuch is found, it is to be given to, and ſold by the Overſeers of the Poor, to the uſe of the Poor.

So

So the 40 s. Penalty upon every Gager of Exciſe, that takes an Account of any Beere or Ale, brewed or made by any Common-brewer, and ſhall not weekly after the Brewer hath or ought to have made his entry at the Office of Exciſe, & not otherwiſe, make to this Brewer, or ſome of his Servants in his behalfe, a true Copy under his hand, of ſuch Report, as he or they have made thereof to the Commiſſioners of Exciſe.

So the 20 s. a Barrell, upon the Common-Brewer of Beer or Ale, that ſhall ſell, carry, or deliver out any Beere or Ale, to any of his Cuſtomers, either in whole Caske, or by the Gallon in any City, Town Corporate, or Market-Town, before notice given to an Officer of the Exciſe, unleſs it be between the 25th of Marth, and the 29 of September; between 3. of the Clock in the morning and 9. in the evening: and in the reſt of the year, between 5. in the morning and 7. in the evening.

So the 20 s. Penalty, for every Barrell on the Common-Brewer, Inn-keeper, Victualler, or Retailer of Beer or Ale, that ſhall after an Account, taken by the Gager of the quantity or quality of the Beer, Ale or Wort, found in the Tun, or other Brewing-Veſſels, convert any part of his Small-Beer, or Small-Wort, into Strong Beer, or Ale, by mingling, or letting down, & ſhall ſell, deliver out, or retaile the ſame, or any part thereof, without giving notice to to the ſame Gager, of the quanitty ſo mingled, or converted. Or if he ſhall after that time hide, conceale or convey any Beer, Ale, or Wort, not Gaged from the view of the Gager, appointed to take account thereof to deceive the King, or his Officers of their Due.

So the 5 *l.* a Moneth Penaltie on him, who ſhall

ſell

sell Coffee, Chocolate, Sherbet, Tea, without license of the General-Sessions of the Peace, of the place where he is, and then not untill he hath given security for the payment of the Kings Dues.

So the 10*l.* forfeiture, upon him, that shall bribe, corrupt, or give any money, fee, or reward to any Gager or Officer to make any false Retorne or Report into the Office of *Excise* of any Beer, Ale, or other Liquor made, or to do the Duty of their places. And so also the 10*l.* Penalty on the sworne Gager, or other Officer, that shall take any bribe or reward of any Brewer, or other for any cause relating to the *Excise*. And for the other Branches of the Statute it seemes the Justices of the Peace have no Power to exercise in relation to them. See the Statute at large.

And by the Act of 12 *Car.* 2. *Cap.* 4. it is provided.

1. That the *Excise* of Beer, Ale, Cyder, & other Liquors should be revived and continue to be payd during the Kings life, by the Rates and Measures expressed in that Statute. And among many Provisions made for the regulating, & *Collection* thereof, there is this one: That the L. Treasurer or *Commissioners* of the Treasury, for the time being, or such as the King shall appoynt, may agree with any persons for the farming of any of the Rates, Dutyes, and charge of these Liquors, for 3. years as may be for the advantage of the Receipt. But for 6. Moneths after the Act, they were not to agree with any, but such as the major part of the Justices of Peace, at their Sessions, should nominate to have the refusal therof.

Commissioners of Excise.

And then after this added: That all the forfeitures & offences, committed against this Act, & within the limits of the *Excise* office in London shalbe adjudgd and determined by the chief *Commiss.* of *Excise* or for

for Appeals, or the major part of them. And other offences and forfeitures made within all, or other the Counties, Cities, or Towns within the Realm, &c. ſhall be heard and determined by any two or more Juſtices of Peace, near the place where the forfeitures ſhall be made, or offences committed. And in caſe of neglect, or refuſal of Juſtices, by the ſpace of 14 days, upon complaint made, and notice given of the offender, then the Commiſſioners, or major part of them appointed for ſuch City, County, &c. may hear and determine it. And if the party be grieved with the Judgement of the Sub-Commiſſioners, he may appeal to the Juſtices of the Peace, at their next Quarter-Seſſions, and they to determine it; and their Judgement to be final in it.

And the Commiſſioners for *Exciſe*, and Juſtices, and Sub-Commiſſioners of *Exciſe* ſtraitly charged, upon complaint, to call the party, examine, and end the matter, give Judgement, iſſue out their Warrants for levying the penalty of the goods of the offender, and ſell the ſame, returning the overplus; and for want of diſtreſs, to impriſon the party, till ſatisfaction be made. But they may mitigate the Fine or Forfeiture, as they think fit, ſo it be not leſs then double the value of the Duty, which ſhould have been paid, beſides the charges of the Officers imployed therein.

And by another Clauſe it is provided, That no perſon ſhall have to do with any Imployment, relating to the *Exciſe*, until he have before two or three Juſtices of the Peace of the County, where his Imployment ſhall be, or before the Barons of the Exchequer, taken the Oath of Allegiance and Supremacy, together with this Oath, *viz.* Oath of Officers of Exciſe.

You ſhall ſwear to execute the Office of truly and faithfully, without favour or affection, and ſhall from time to time true Accompt make, and deliver to ſuch perſon as His Majeſtie ſhall appoint to receive the ſame, and ſhall take no Fee or Reward for execution of the ſaid Office, from any other perſon than His Majeſty, or thoſe that he ſhall appoint in that behalf.

And every Juſtice of Peace is to certifie the taking of ſuch Oath to the next Quarter-Seſſions, there to be recorded.

And after there is this Clauſe. Provided no Writs of *Certiorari* ſhall ſuperſede Execution, but that it may be made upon any Order, &c. made by the Juſtices aforeſaid, any ſuch Writ or Allowance thereof notwithſtanding.

CHAP. LVI.

Of Petitions.

Anno 13 Car. 2. cap. 5.

Tumultuous Petitions.

THere is an Act againſt a tumultuous Petition to the King or Parliament, for the alteration of any thing eſtabliſhed by Law in Church or State with above 20 hands to it, unleſs the matter of the Petition be firſt conſented unto, and ordered by three or more of the Juſtices of the Peace of the County, or of the diviſion of the County where the matter doth ariſe at their publick Aſſizes, or general Quarter-Seſſions: Or if in *London*, by the

the Mayor, Communalty, and Common-Councel.

If any above the number of 10 persons at once go to the King with any Petition, or Publick Address, under pain of 10 *l.* or 3 Moneths imprisonment, without Bayl: the offence being presented at the Kings Bench, Assizes, or Quarter-Sessions within 6 moneths after the offence committed.

Anno 15. *Car.* 2. *Of Fennes.*

Breaking down of Inclosures in the Fens.

It is provided (amongst many other things) That if any person having Right of Common in any the Manors, Wastes, Commons or Lands within the great Level of the Fennes, extending into the Counties of *Northampton*, *Norfolk*, *Suffolk*, *Lincoln*, *Cambridge*, *Huntington*, and the *Isle of Ely*, or any other at any time after Division or Inclosure made of it, shall break, throw down, or obstruct, or by any means hinder, or lay open any of the Improvements, or Inclosures, or the Hedges, Ditches, or Fences of the same shall destroy, and he be convicted thereof by two credible witnesses, before two Justices of the Peace of the County where it is done, he shall forfeit 40 *l.* for every offence to be levied by distress and sale of the offenders goods, one half to the Informer, the other half against whom the offence is committed: and for want of distress, to be sent to the house of Correction for three moneths.

Anno 16 *Car.* 2. *Of Hearth-Money.*

Hearth-money.

By 14 *Car.* 2. *cap.* 10. and 15 *Car.* 2. *cap.* 11. The Juſtices of Peace had a power to do ſomething for the diſcovery of Chimneys, and the ſetling of the Kings Due for *Hearth-Money*. But that Work, it ſeems, is now paſt.

But by the laſt Act of 16 *Car.* It is provided, That for the Search and Examination of *Fire-Hearths* and *Stoves*, the Kings Officer, with the Conſtable of the place, ſhall once a year compare their Books. And if they find any variance in the number returned, they ſhall joyn together, and certifie it under their hands to the Clerk of the Peace. And after approbation thereof by the Juſtices of the Peace at their Seſſions, the ſame to be certified to the Kings Remembrancer in the *Exchequer*.

(2) That where any violent oppoſition or injury is done by any to the Kings Officer, or his Deputy, in the Collection of the *Hearth-Money*. And this being proved before any one Juſtice of Peace, or chief Magiſtrate of the place; this Magiſtrate may puniſh the offender by impriſonment, in the Common Gaol for any time not exceeding a moneth.

(3) That where any one ſhall fraudulently ſtop up, deface, cover, or conceal any Chimney, Hearth, or Stove chargeable by the Acts, and the ſame be proved, either by confeſſion of the party, or upon Oath, before one Juſtice of Peace, or chief Magiſtrate, or by their view, he ſhall for ſuch offence pay double the value of the Duty for the ſame, to be levied as aforeſaid.

(4) That if any difference ariſe about the taking of

of any distress, or levying of any money by this Act, any one Justice of the Peace near the place, or other chief Magistrate, upon complaint to him, may hear and determine it.

(5) The Justices of the Peace are to be assistant to the Kings Officers, every where, in the Collection of this money.

CHAP. LVII.

Of Conventicles.

In Anno 16 Car. 2.

Conventicles.

BY this Act it is provided, That if any one 16 years old, or upwards, shall be present at, or willingly suffer in his house, any Assembly, Conventicle, or Meeting, under colour of any Exercise of Religion, in other manner than is allowed by the *Liturgy*, or practice of the Church of *England*, whereat there shall be five persons, or more, together, above those of the same Houshold, any two Justices, or the chief Magistrate of the place where the offence is, upon proof of it by confession, oath of witness, or notorious evidence of the Fact, if it be within three moneths of the offence done, may record it, and this shall be a Conviction of the party. And for the first offence, these Justices, or this Officer may send him to the Gaol, or House of Correction, there to be without Bayl, for any time not above three moneths, unless he pay down presently to the Magistrate what under 5 *l.* he shall set down (which Fine he is to set) to be paid to the Church-wardens of the place where the offender last

last dwelt, to the use of the poor. For the second offence, imprisonment in the Gaol, or House of Correction, without Bayl for any time not above six moneths, unless he presently pay down what under 10 *l.* he shall impose by way of Fine as before. And for the third offence, imprisonment without Bail, till the general Quarter-Sessions, Assizes, Gaol-Delivery, &c. When and where he is to be tryed, and if found guilty of the third offence, if it be not a Feme Covert, to be sent to some other foreign Plantation, than *Virginia* and *New England*. Which the Sheriff, by the Judges Warrant, is to see done, *sub pœna* 40 *l.* And then by Warrant of that Court, wherein he was convicted, his Estate real and personal is to be sequestred, his goods to be distrained, and sold to satisfie the Sheriff for his money he hath layd out, if he hath laid out any, for the transportation, he may keep it up, and by his goods satisfie himself. But if he pay into the Court where he is convicted 100 *l.* he is not to be transported. And so for every other after the third offence.

The Officers of the *Militia*, and others with them, on a Certificate, under the Hand and Seal of one Justice of the Peace, or chief Magistrate of any such Conventicle, may go to the place and dissolve it, and take into their Custody, such as they shall judge to be the Leaders and Seducers of the rest, and such others as they shall think fit, to be proceeded against according to Law for their offence.

If the Keeper of any Gaol, that hath any such offender in his custody, suffer him to go at large, or suffer a stranger to joyn with him in a Conventicle, he forfeits 10 *l.* to be levied as the other forfeitures.

The

The Juſtices, or chief Magiſtrate where ſuch a Conventicle is, may take what power he will with him, and after refuſal or denial, enter into the houſe or place where he is informed it is kept, unleſs it be the houſe of a Peer, but in the preſence of two Juſtices. Nor is any dwelling-houſe to be entred with force (except in the City of *London*) but in the preſence of one Juſtice of Peace or chief Magiſtrate. And in *London* not without a Juſtice of Peace, Alderman, Deputy-Alderman, or one Commiſſioner for the Lieutenancy for the City of *London*.

None to be ſent to the Houſe of Correction on this Statute, that hath Free-hold, or Copy-hold 5 l. a year, or goods to the value of 50 *l*.

Such as refuſe to take an Oath, being called into a Court to do it legally, may be for this adjudged to be tranſported, unleſs in that Court, or before a Juſtice of Peace he ſhall take an Oath in theſe words, *I do ſwear that I do not hold the taking of an Oath to be unlawful, nor refuſe to take an Oath on that account.*

If any Peer offend againſt this Act, he ſhall pay for the firſt offence 10 *l*. for the ſecond offence 20 *l*. to be levied of his Goods and Chattels, by Warrant of any two Juſtices of Peace, or chief Magiſtrate. And for his third offence he is to be tryed by his Peers.

This Act is to continue three years after the end of this Seſſion of Parliament, and from thence forward, to the end of the next Seſſion of Parliament, after the ſaid three years, and no longer.

CHAP. LVIII.

Of Fiſhing for Pilchards.

Fiſhing for Pilchards.

BY 14 *Car.* 2. *cap.* 2. It is provided, That if any from the firſt of *June*, to the laſt of *November*, take any Fiſh with Nets in any Bay, Port, or Creek in *Cornwal* or *Devon*, they ſhall forfeit their Nets. And that if any idle fellows ſhall flock together in the night, about the Boats, Nets, or Cellars belonging to the Pilchard-Craft, upon any of the Coaſts of *Cornwal*, or *Devon*, having no buſineſs there, and being warned by the Company to depart, and they do not; upon complaint to any Juſtice of Peace, the perſon ſo refuſing to depart, ſhall pay VS. to the poor of the Pariſh where the offence is committed, or be put in the Stocks five hours.

Manufacture and Trades.

By 12 *Car.* 2. *cap.* 5. Of Manufactures and Trades; There are divers Proviſions for the making of Worſteds, and other Stuffs, called *Norwich Stuffs*, and for the regulating of the ſame in the County of the City of *Norwich*, and the County of *Norfolk*, and ſundry penalties to be inflicted on them that offend therein.

And after this is this clauſe, *viz.* That all the penalties and forfeitures, with all Fines appointed to go to the poor of the Trade, ſhall be levied by diſtreſs and ſale of the offenders Goods and Chattels, by VVarrant from the Mayor of the City, or his Deputy, or any one Juſtice of the Peace of the ſaid City, or County of *Norfolk*, rendring the overplus; or otherwiſe to be recovered by Action of

of Debt, Bill, &c. in any of His Majeſties Courts of Record, wherein no Eſſoine, &c.

That a true account be rendred at Aſſemblies to be held quarterly before the Mayor of the City of *Norwich*, one of the Juſtices of the Peace of the City, and two Juſtices of Peace of the County of *Norfolk*, of all Fines and Forfeitures that ſhall be received and had, belonging to the Trade and Manufacture, and of all charges and diſburſements therein, and the overplus of the money is to goe, a moyety to be diſpoſed of by the Wardens and Aſſiſtants of the City of *Norwich*, and the other half by the Wardens and Aſſiſtants of the County of *Norfolk*, or the major part of them to the uſe of the Poor of the Trade, as the Juſtices ſhal reſpectivly direct.

Trade of a Silk-thrower.

In 14 *Car.* 2. *cap.* 15. It is provided, That none ſhall ſet up, or uſe the Trade of a Silk-thrower, unleſs he have been Apprentice, or as an Apprentice to it ſeven years, under pain of 40 *s.* a moneth forfeiture, half to the King, half to him that will ſue in any Court of Record, or before any Juſtices of *Oyer* and *Terminer*, or Juſtices of the Peace at their Quarter-Seſſions by Action of Debt, &c. wherein no eſſoyne, &c.

Silk-winder and Doubler

That every Silk-winder, and Doubler that ſhall falſly and deceitfully purloyn, pawn, imbezel, detain, or ſell any Silk delivered to him by any Silk-thrower, or other, to wind or double, he that ſells, and he that buyes, being convicted by his confeſſion, or Oath of one Witneſs before any Juſtice, ſhall be committed by him who ſhall have power to hear and determine the offence, and to make recompence to the party grieved for his damage, as the Juſtice ſhall think fit: And if he do it not in 14 days, and be not able, for the firſt offence to be whipped,

whipped and ſet in the Stocks where he offended, or in ſome Market-Town near the place, and ſo for the ſecond offence, and what other puniſhment the Juſtice ſhall think fit. And ſo likewiſe he is to be puniſhed that doth receive, buy, or take to pawn any ſuch Silk.

A Corporation of Juſtices within the Weſt-Riding in the County of York.

In 12 *Car.* 2. *cap.* 31. It is enacted, That there ſhall be a Corporation within the *Weſt-Riding* of the County of *York*, of the Trade and Myſtery of *Clothiers*, and that all the Juſtices of the Peace of the *Weſt-Riding* be a part of it.

Covent-Garden and St. Martins Pariſh divided.

By 12 *Car.* 2. The bounds of the Pariſh of Saint *Paul Covent-Garden* are ſet out, and it is divided from the Pariſh of Saint *Martins*. And the new erected Church there made the Pariſh Church, and 100 *l.* a year charged upon ſome of the houſes there for ever, to the Rector and his Succeſſors, and 250 *l.* more charged upon the houſes there, for a Curate and other Officers, to be aſſeſſed by the Church-Wardens, by a pound Rate, according to the yearly value of the Houſes, which is to be confirmed by two Juſtices of Peace of *Weſtminſter*. And there it is provided, That the Church-wardens of the Pariſh, who by the Act are to receive and pay the money, ſhall pay to the Rector 150 *l.* a year, and 50 *l.* a year to the Curate, at ſuch days, and in default of payment thereof, at the houſe of any of the Church-wardens, the two next Juſtices, dwelling in *Weſtminſter*, upon complaint, may cauſe the Church-wardens, who ſhall fail of payment, to be impriſoned till payment be made. And it is provided further, That the Church-wardens, or two of them, may make Rates and Aſſeſſments

Rates for Scavengers to be confirmed by the Juſtices.

ments on the Inhabitants from time to time, for payment of Scavengers, and cleansing the Streets of the Parish, and the repair of the Church, when need shall be. And this Rate is also to be allowed and confirmed by two Justices of the Peace of *Westminster*.

By 12 *Car.* 2. *cap.* 17. Where any goods are conveyed away, to deceive the King of his Customs and Dues for Tonnage and Poundage, there is a remedy provided, wherein the assistance of a Justice of Peace is to be used.

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